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W.P.No.23850 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No. 23850 of 2023

R.NANJUNDAN

... Petitioner

Vs.

1. DISTRICT COLLECTOR
NILGIRIS DISTRICT,UDHAGAMANDALAM.

2. THE TAHSILDAR,
COONOR TALUK, NILGIRIS DISTRICT.

3. BLOCK DEVELOPMENT OFFICER,
COONOR PANCHAYAT UNION, NILGIRIS DISTRICT.

4. THE PRESIDENT,
MELLUR GRADE-I PANCHAYAT, COONOR PANCHAYAT UNION,
NILGIRIS DISTRICT.

5. J.MOORTHY,

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the directing the 4th respondent to implement his Order vide Na.Ka. No. 23-2020-2021 dated 28.03.2023 by locking and sealing the unauthorized construction put up by the 5th respondent in the encroached land comprised in S.No. 85 of Melur Village, Coonoor Taluk, The Nilgiris District, forthwith.

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For Petitioner : Mr.S.B.Viswanathan
For Respondents : Mr.Abishek Murthy
Government Advocate

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed for issuance of Writ of Mandamus, to direct the 4th respondent to implement the Order in Na.Ka.No.23-2020-2021 dated 28.03.2023, by locking and sealing the unauthorized construction put up by the 5th respondent, in the encroached land comprised in S.No.85 of Melur Village, Coonoor Taluk, The Nilgris District, forthwith.

2.It is the case of the petitioner that the 5th respondent herein is the stranger to the land in S.No.85 of Melur Village, Coonoor Taluk, The Nilgris District, measuring to an extent of 2 acres and 89 cents. The 5th respondent not only encroached upon a portion of the said land, but also blocked drainage, which was running from the house of the petitioner's father, to a width of 4 feet and to a length of 51 feet and constructed a house thereon,



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without obtaining permission of the 4th respondent. Therefore, the petitioner sent a representation dated 27.07.2021 to the 4th respondent, alleging that the 5th respondent encroached a public sewage canal and a portion of land comprised in S.No.85 of Bellada – Melur Village.

3. Based on the petitioner's representation, the 4th respondent sent a notice dated 23.09.2021 to the 5th respondent, calling upon him to furnish necessary documents and building permission. Final notice dated 19.07.2022 was also issued by the 4th respondent, calling upon the 5th respondent either to get planning permission or to remove the household articles in the said building, with a warning that in case of failure to do so, the building would be locked and sealed with the assistance of officials of revenue and police department.

4. Again the 4th respondent issued the proceedings in Na.Ka.No.23-2020-2021 dated 28.03.2023, calling upon the 5th respondent to remove the household articles in the said building within 15 days from the date of receipt



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of that proceedings. Even after receipt of the proceedings dated 28.03.2023, the 5th respondent neither initiated any steps to apply for necessary permission nor removed the household articles from the said building. The 4th respondent also not taken any coercive steps. Hence the present Writ Petition.

5.Mr.Abishek Murthy, learned Government Advocate appearing for the respondents 1 to 4 filed status report dated 24.08.2023 before this Court, wherein in paragraph No.6, reads as follows:-

“6.I state the building plan approval was issued by this respondent vide Building Permit Order No.07/2023-24 to the 5th respondent on 10.08.2023 as per Tamil Nadu Panchayat Building Rules, 1994, and (Hill Stations) Building Rules, 1993 with certain conditions. I state that as on date, the 5th respondent has a building approval and the building constructed by him is in accordance with the Tamil Nadu Panchayat Building Rules, 1994 and (Hill Stations) Building Rules, 1993, hence, this respondent cannot lock and seal the building of the 5th respondent.”

6.On perusal of the Status report filed by the respondents 1 to 4, it is



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seen that the 5th respondent has constructed the building, after obtaining necessary plan approval. Therefore, this Writ Petition deserves no consideration and accordingly, stands dismissed. No costs.

(J.N.B.,J.) (N.M.,J.)
16.10.2023

Index : Yes / No
Speaking Order : Yes/No
Internet:Yes/No
Neutral Citation: Yes/No
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To

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