



WEB COPY



W.P.No.6052 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.6052 of 2022

Sundaram

... Petitioner

Vs.

- 1.The President,
Ayarnappalli Panchayat,
Halaseebam Village and Post,
Shoolagiri Taluk,
Krishnagiri District.
- 2.The Block Development Officer,
Shoolagiri Union,
Shoolagiri Taluk,
Krishnagiri District.
- 3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Dharumapuri Road,
Rayakottai Village,
Denkanikottai Taluk,
Krishnagiri District.



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4.Muthuraj

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to stop the illegal and unauthorised construction (Ground + three floors) being put up by the 4th respondent at Survey No.736/2, Halaseebam Village, Shoolagiri Taluk, Krishnagiri District.

For Petitioner	:	Mr.C.H.Srikanth for Mr.M.P.Saravanan
For R1 and R2	:	Mrs.Geetha Thamaraiselvan Special Government Pleader
For R3	:	Mr.D.Jaivenkatesh Standing Counsel for TANGEDCO
For R4	:	M/s.R.Poornima

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to stop illegal and unauthorised construction which is put up by the 4th respondent in S.No.736/2, Halaseebam Village,



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Shoolagiri Taluk, Krishnagiri District.

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2. Brief facts that are necessary for the disposal of this writ petition are as follows :

The petitioner states that an extent of 64 cents in S.No.736/2, Halaseebam Village, Shoolagiri Taluk, Krishnagiri District, belonged to the petitioner's father by name T.Muthappa. The petitioner admits that his father T.Muthappa executed a Will bequeathing his properties in respect of an extent of 56 cents, after selling an extent of 8 cents. It is not in issue that the petitioner is in possession of the property bequeathed in his favour and the 4th respondent is also in enjoyment of the property bequeathed in his favour under the Will and has put up construction. The Will came into force on the death of petitioner's father on 29.11.2020 and the parties are in possession of the respective property that was given under the Will. The petitioner has now come forward with this writ petition by alleging that the 4th respondent, who is none else than his brother, has put up a construction without obtaining valid plan approval from the respondents 1 and 2.



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3.It is the case of the petitioner that the construction is in encroachment of road portion measuring about 2 ½ to 3 feet and that the 4th respondent has proceeded with construction despite objection raised by the petitioner. Since the 4th respondent has put up unauthorised construction without a plan approval, the petitioner states that the respondents 1 and 2 are expected to take action and has come forward with this writ petition.

4.A Status Report is filed by the 2nd respondent and this Court is convinced on seeing the report that the alleged violation is not so glaring or alarming so as to initiate immediate action. It was after noticing the nature of Status Report, this Court suggested the parties, namely petitioner and 4th respondent, to amicably settle their issues. The Advocate Commissioner, who was appointed by this Court, has submitted a report indicating that there is no encroachment by the 4th respondent in any road portion and therefore, the allegation that the construction is in encroachment of road portion, is false. The 4th respondent has obtained a plan and the construction is wholly within the property bequeathed to him under the Will executed by his father.



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5.From the report, this Court is unable to ascertain whether the construction put up by the 4th respondent is in violation of building plan approval granted to the 4th respondent. Assuming that the 4th respondent has put up construction in slight deviation of the approved plan, it may be open to the respondents 1 and 2 to take appropriate action, after issuing notice in the manner known to law. At the instance of the petitioner, no positive directions can be issued by this Court, as the petitioner is not an aggrieved party and he has no building adjacent to the construction put up by the 4th respondent to complain any legal injury. This appears to be a litigation with ulterior motive and therefore, this Court is not inclined to entertain this writ petition.

6.Hence, this writ petition is dismissed. No costs.

(S.S.S.R., J.) (N.S., J.)
23.04.2024

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Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No



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