



W.P.No.9200 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

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D.Vinayagam

... Petitioner

Vs.

1.Puducherry Planning Authority,
Represented by the Member Secretary,
Jawahar Nagar, Boomianpet,
Puducherry – 605 005.

2.A.Ponnusamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to demolish the unauthorised construction put up by the 2nd respondent in the form of an alleged temple by illegally removing the compound wall constructed by the petitioner and trespassing into his land in R.S.Nos.104/5 and 104/6 measuring 1 Kuzhi and 10 ½ Veesam in Cadastre No.354, Oulgaret Village, Oulgaret Commune, Oulgaret S.R.D., Puducherry R.D. (situated at Paris



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Nagar, Perambai Main Road, Moolakulam, Oulgaret Revenue Village,
Oulgaret Municipality, Puducherry.

For Petitioner : Mr.S.Sudarshan

For R1 : Mr.J.Kumaran
Additional Government Pleader
(Pondicherry)

For R2 : Mr.K.S.Ilangovan
for M/s.Achari & Antoni Associates

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus directing the 1st respondent to demolish the unauthorised construction put up by the 2nd respondent in the form of Temple.

2.The case of the petitioner is that the 2nd respondent has put up construction after removing the compound wall constructed by the petitioner. It is the case of the petitioner that the construction is trespassing into the petitioner's patta land in R.S.Nos.104/5 and 104/6, measuring an extent of 1 Kuzhi and 10 ½ Veesam in Cadastre No.354, Oulgaret Village,



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Puducherry.

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3. Though the petitioner states that he is the lawful owner of the property, the 2nd respondent seriously disputes the title of the petitioner. The petitioner, who claims title to the property in which a third party is admittedly in possession by putting up construction or otherwise, is expected to go before Civil Court to seek appropriate relief. This Court, in a writ petition under Article 226 of the Constitution of India, cannot go into the issue of title. Since this Court is of the view that there is *bona fide* dispute as regards title to the land, this Court is not inclined to issue a positive direction for demolition of unauthorised construction, as there is possibility of construction being regularised under the provisions of Puducherry Town and Country Planning Act, 1969.

4. In the present case, it is stated that the 1st respondent had issued a Stop Work notice on 03.01.2024 to the 2nd respondent under Section 45(1) of Puducherry Town and Country Planning Act, 1969. It is in the said circumstances, this Court finds that the above writ petition can be disposed



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of with the following directions :

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- i. The petitioner or the 2nd respondent shall approach the Civil Court for filing appropriate suit with adequate prayers to resolve all the disputes between the parties.
- ii. Till such time the suit is decided in one way or the other, the 2nd respondent shall not proceed with any construction in the disputed property unless he has an order of Civil Court in his favour.
- iii. Depends upon the outcome of the Civil Court proceedings, it is open to the 1st respondent to take appropriate action against the unauthorised construction.

5. With these directions, this writ petition is disposed of. No costs.

(S.S.S.R., J.) (N.S., J.)
12.07.2024
(2/2)

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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To

The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar, Boomianpet,
Puducherry – 605 005.



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and
N. SENTHILKUMAR, J.

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