



W.P.No.16065 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.16065 of 2021

Mr.V.Prakash

..

Petitioner

-VS-

1. District Collector
District Collector Office
Palladam Main Road
Tirupur 641 601
Tiruppur (district)
2. Village Administrative Officer
Kaniyampoondi Village
Avinashi Taluk
Avinashi 641 652
Tiruppur (district)
3. The Tahsildar
Tahsildar Office
Avinashi Taluk
Avinashi 641 652
4. Member Secretary
Tiruppur Local Planning Authority



W.P.No.16065 of 2021

WEB COPY

Kumaran Commercial Complex
1st Floor, Corporation Building
Near Railway Station
Tiruppur 641 601
Tiruppur (district)

5. The Block Development Officer
Regional Development Office
Avinashi
Avinashi Taluk 641 652
Tiruppur (district)

6. The President/Chairman
Kaniyampoondi Panchayat
Kaniyampoondi Village
Avinashi Taluk
Avinashi 641 652
Tiruppur (district)

7. Mr.P.Balakrishnan .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 4, 5 and 6 to remove the illegal constructions in land located at S.F.No.201/2, Kaniyampoondi Village, Avinashi Taluk, Tiruppur in terms of the letter dated 22.04.2021 bearing No.4056 of 2020 within a time frame.

For Petitioner :: Mr.P.J.Sri Ganesh

For Respondents :: Mrs.S.Anitha
Special Government Pleader
for R1 to R5



W.P.No.16065 of 2021

R6-No appearance
Mr.K.S.Ilangovan for
Mr.S.Arun Vishwa for
M/s Achari and Antoni Associates
for R7

ORDER

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

This writ petition is filed for issuance of a mandamus to the respondents 4, 5 and 6 to remove the illegal constructions put up by the seventh respondent in the land in S.F.No.201/2, Kaniyampoondi Village, Avinashi Taluk, Tiruppur District.

2. The brief facts that are necessary for the disposal of the writ petition are as follows. The petitioner is one of the joint owners of the vacant land measuring about 4.92 acres comprised in S.F.No.201/2, Kaniyampoondi Village, Avinashi Taluk, Tiruppur District. The petitioner states that he acquired the property by way of a settlement deed dated 14.08.2018 registered as Document No.10126 of 2018.

3. The petitioner, though admits that he had entered into an



W.P.No.16065 of 2021

unregistered memorandum of understanding with the seventh respondent for selling the property for a total consideration of Rs.6.5 crores, states in the affidavit that the seventh respondent has to pay a substantial amount of Rs.5.5 crores. It is also the case of the petitioner that pursuant to the sale agreement, the seventh respondent, without even applying for planning permission, started putting up construction. Despite the petitioner filing a suit for permanent injunction in O.S.No.216 of 2020 with interlocutory applications, it is stated that the said suit is pending before the District Munsif Court, Avinashi.

4. Since the seventh respondent had started putting up construction in the property of the petitioner without permission under the Town and Country Planning Act and/or from other statutory authorities, the petitioner appears to have submitted a representation to the respondents on 16.09.2020. Stating that the respondents have not taken any action on the representation to stop the illegal construction, the petitioner has filed the above writ petition for removal of the unauthorized/illegal construction put up by the seventh respondent in the property.



W.P.No.16065 of 2021

5. The respondents including the seventh respondent have not filed any counter affidavit. It is to be noted that this Court, while admitting the writ petition, has directed the parties to maintain status quo. However, the seventh respondent herein filed a contempt petition vide Cont.P.No.2005 of 2022 for deliberate disobedience of the order passed by this Court dated 03.08.2021 directing the parties to maintain status quo. But this Court vide order dated 14.03.2023 dismissed the contempt petition with costs of Rs.1,00,000/- each payable by the petitioner and the seventh respondent. As against this order, the writ petitioner filed a special leave petition. The Hon'ble Supreme Court directed not to initiate any coercive steps against the petitioner provided he extends all cooperation in the investigation proceedings.

6. The fact that the seventh respondent has not obtained building plan approval before making any construction is not in dispute. The seventh respondent is not the owner of the premises. Therefore, he may not be able to apply for plan approval without the concurrence and permission of the petitioner. In such circumstances, any construction put up by the seventh



W.P.No.16065 of 2021

respondent is required to be demolished and action should be taken in accordance with law. Therefore, irrespective of the stage of construction, the official respondents are directed to initiate action for demolition of the unauthorized construction put up by the seventh respondent, after following due process of law, within a period of sixteen weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
30.01.2024

ss

To

1. The District Collector
District Collector Office
Palladam Main Road
Tirupur 641 601
2. The Village Administrative Officer
Kaniyampoondi Village
Avinashi Taluk
Avinashi 641 652
3. The Tahsildar
Tahsildar Office



W.P.No.16065 of 2021

WEB COPY

- Avinashi Taluk
Avinashi 641 652
4. The Member Secretary
Tiruppur Local Planning Authority
Kumaran Commercial Complex
1st Floor, Corporation Building
Near Railway Station
Tiruppur 641 601
5. The Block Development Officer
Regional Development Office
Avinashi
Avinashi Taluk 641 652
6. The President/Chairman
Kaniyampoondi Panchayat
Kaniyampoondi Village
Avinashi Taluk
Avinashi 641 652



WEB COPY



W.P.No.16065 of 2021

S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

W.P.No.16065 of 2021

30.01.2024