



WEB COPY



W.P.No.14634 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM :

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

W.P.No.14634 of 2024

1. N.Senthil Nathan
2. Tmt.Lathamageshwari
W/o P.N.Senthil Nathan .. Petitioners

v.

1. The Joint Director
Town and Planning Authority
Coimbatore
2. The Executive Officer
Perur Town Panchayat
Perur, Coimbatore District
3. Sri-la-Sri Shanmugha Desika
Gnanasambanda Paramacharya
Swamygal Avargal
Dharma Adheenam
Dharmapuram
Mayiladuthurai District .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus, directing the respondents 1 &



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2 to take appropriate action to prevent the illegal and unauthorized construction of the 3rd respondent in the land measuring 2704 sq.ft or 6 cents and 88 sq.ft in Perur Village Natham in S.No.78/1, Perur Taluk, Coimbatore District by considering the petitioners' representation dated 03.05.2024 forthwith.

For Petitioners :: Mr.A.Ilayaperumal

For Respondents :: Mr.R.Vigneswaran
Government Advocate for R1
Mr.P.Ganesan
Addl.Government Pleader for R2
Mr.B.Jawahar for R3

ORDER

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

W.M.P.No.15901 of 2024 seeking to permit the petitioners to file a single writ petition stands allowed.

2. This writ petition is filed for issuance of a mandamus to the respondents 1 & 2 to take appropriate action to prevent the illegal and unauthorized construction of the 3rd respondent in the land measuring 2704 sq.ft or 6 cents and 88 sq.ft in Perur Village Natham in S.No.78/1, Perur Taluk, Coimbatore District by considering the petitioners' representation



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dated 03.05.2024.

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3. The petitioners claim that they are the absolute owners of land measuring 2704 sq.ft or approximately 6 cents and 88 sq.ft at Perur Village in Survey No.78/1. The case of petitioners is that they have purchased the said property under a sale deed dated 02.12.2009 from one N.Rangasamy and others. Stating that the third respondent has encroached into the property of petitioners, the petitioners have come by way of the present writ petition for taking action against the illegal and unauthorized construction put up by the third respondent in their property.

4. The petitioners are persons residing in Coimbatore and the unauthorized construction alleged by the petitioners is against the third respondent who is in Mayiladuthurai. Though the petitioners state that the third respondent is putting up unauthorized construction, it is admitted that construction in the ground floor has already been completed. The petitioners who are disputing the title of third respondent, have not approached the civil Court so far and therefore, this Court entertains a doubt as to the bona fides



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of this litigation. The petitioners have an effective alternative remedy of approaching the civil Court when they are really aggrieved by the encroachment made by the third respondent into their own property. It is also to be noted that the petitioners are not really aggrieved by the nature of construction. There is no allegation that the construction put up by the third respondent is in violation of building regulations. In such circumstances, when allegations are made against an individual for illegal construction on the ground that the construction is in encroachment of their own property, the same need not be considered, unless the petitioners establish a personal injury or cause as against the construction. Therefore, the petitioners are at liberty to approach the civil Court to establish their right or title to the property. Since the third respondent is in possession, the application, if any, submitted by the third respondent for building plan permission or approval can be considered by the respondents 1 & 2 independently as per law. However, if the petitioners get a declaration as to their title from the civil Court, then the petitioners objections regarding unauthorized construction can be considered by the authorities. This order will not stand in the way of official respondents to take action if the construction is contrary to building



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regulations. With this observation, the writ petition stands disposed of.

Consequently, W.M.P.No.15903 of 2024 is closed. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
27.06.2024

SS

To

1. The Joint Director
Town and Planning Authority
Coimbatore
2. The Executive Officer
Perur Town Panchayat
Perur, Coimbatore District



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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

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