



WEB COPY

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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No. 35169 of 2024
and
W.M.P.No. 38077 of 2024

Adam Sait and Abdullah Sait's Maternity
Hospital Charity Waqf
Represented by its Muthawalli
Jaffer Mohamed Sait,
Southwick, Conoor Road,
Ootacamund - 643001.

...Petitioner

Vs.

- 1.The District Collector,
Nilgiris, Udthagamandalam - 643 001.
- 2.The Town and Country Planning Officer,
Coonoor Municipality,
Coonoor - 643 101.
- 3.The Commissioner,
Coonoor Municipality, Coonoor,
Nilgiris - 643 101.
- 4.The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.



5.Somasundaram

6.Ganeshan

7.Seethalakshmi

8.Sundar Rajan

9.Priya

10.V.Krishnamoorthy

11.V.Krishnakumar

12.Meharunisha

13.Palkis

14.Ameer Abbas

15.Bhuvaneshwari @ Rani

16.Nirmala

17.Rani

18.C.Sugumar

19.C.Kavitha

20.Kamalam

21.S.Velayudham

22.Yogesh

...Respondents



Prayer: Writ Petition filed under 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to demolish the illegal and unauthorized constructions raised by respondents 5 to 22 herein Petitioner's Trust property in R.S.No.1017, New No.B 46-5/1, Ward-B, Block-46, Town Survey No./1 of Coonoor Town and Municipality measuring an extent of 18.29 - 6/16 acres as per representation dated 30.10.2024.

For Petitioner : Mrs.R.Sripriya

For Respondents : Mr.R.Kumaravel

Additional Government Pleader for R1 to R3

ORDER

This is another instance of the petitioner seeking a decree for possession under Article 226.

2. Admittedly, the petitioner claims to be the owner of the properties and ranks respondents 5 to 22 as encroachers. The suit filed by the respondents seeking a declaration was decreed but the said decree has been set aside by this Court in C.R.P.No.1437 of 2008. It is stated that the petitioner has issued notice for eviction under the Waqf Act and it is for the



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Waqf Board to take action for eviction of the encroachers. It is at this stage, the petitioner has come up with this novel idea for invoking Article 226, claiming that the respondents 5 to 22 are putting up construction unauthorizedly and seeking action against them. This, in effect, would be a proceeding for eviction which we do not think, can be entertained under Article 226 of the Constitution of India.

3. Hence, this Writ Petition is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed. However, this will not affect the rights of the petitioner to seek eviction of the alleged encroachers.

(R.S.M., J.) (C.K., J.)
22.11.2024

kkn

Internet: Yes

Index: No

Speaking

Neutral Citation : No



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