



W.P. Nos. 880 of 2019 and 35136 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 880 of 2019 and 35136 of 2023

W.P. Nos. 880 of 2019:-

R.Arumugam

... Petitioner

-VS-

1. The Executive Officer & Thakkar (In charge),
Sitharaj Savadi Arulmigu Subramaniya Samy Thiru Kovil,
Sevvai Pattai,
Salem Corporation,
Salem
and Arulmighu Mariamman Thiru Koil,
Meyyanur,
Salem – 636 004.
 2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Salem.
 3. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.
 4. The Collector,
Salem District,
Salem.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Cetiorarified Mandamus, calling for the records



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relating to the impugned Order No. (Nil) dated 17.12.2018 issued by the First Respondent and quash the same and direct the Respondents to complete the proceedings initiated by the Respondents on 05.02.2015 in compliance with the order of this Court in W.P. No. 1841 of 2015.

For Petitioner : Mr. A.M.Packiananthan Easter

For Respondents : Mr. K.Karthikeyan,
Government Advocate (for R1 to R3)

Mr. V.Ravi,
Special Government Pleader (for R4)

W.P. No. 35136 of 2023:-

A.Radhakrishnan

... Petitioner

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Nungambakkam High Road
Chennai – 600034.
2. The District Collector
Salem – 636001.
3. The Sub Divisional Executive Magistrate cum
Revenue Divisional Officer
Suramangalam
Salem – 636005.
4. The Taluk Executive Magistrate cum Tahsildar
Suramangalam
Salem – 636005.
5. The Assistant Commissioner of Police
Suramangalam
Salem – 636005.



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6. The Assistant Commissioner
Hindu Religious & Charitable Endowments Department
Salem Town – 636001.

7. The Fit Person
Arulmigu Sakthi Mariamman Temple
Meyyanur, Salem – 636004.

8. K.Govindan

9. R.Arumugam

10. K.Karthikeyan ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First to Seventh Respondents to secure and safeguard the property of Seventh Respondent Temple situated at Salem West Taluk, Ward M, Block No.26, T.S.No.58/2 & 59 by considering the Petitioner's representation dated 11.10.2021 and 29.11.2023.

For Petitioner : Mr. R.Marudhachalamurthy

For Respondents : Mr. V.Ravi,
Special Government Pleader
(for R2 to R4)

Mr. K.Karthikeyan,
Government Advocate
(for R1 & R5 to R7)

Mr. K.Rajasekar (for R8)

Mr. A.M.Packianathan Easter
(for R9 & R10)



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COMMON ORDER

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Since the subject-matter of dispute in W.P. Nos. 880 of 2019 and 35136 of 2023 are inter-connected, they have been heard together and are disposed by this common order.

2. Heard Mr. A.M. Packianathan Easter, Learned Counsel for the Petitioner in W.P. No. 880 of 2019 and Ninth and Tenth Respondents in W.P. No. 35136 of 2023, Mr. R.Marudhachalamurthy, Learned Counsel for the Petitioner in W.P. No. 35136 of 2023, Mr. K.Karthikeyan, Learned Government Advocate appearing for the First to Third Respondents in W.P. Nos. 880 of 2019 and 35136 of 2023 and the First and Fifth to Seventh Respondents, Mr. V.Ravi, Learned Special Government Pleader appearing for the Fourth Respondent in W.P. No. 880 of 2019 and Second to Fourth Respondents in W.P. No. 35136 of 2023 and Mr. K.Rajasekar, Learned Counsel for the Eighth Respondent in W.P. No. 35136 of 2023 and perused the materials placed on record, apart from the pleadings of the parties.

3. The chronological sequence of events leading to the filing of these Writ Petitions as borne out from the record are narrated below:-



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(i) A Public Interest Litigation in W.P. No. 16764 of 2014 was filed by one

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A.Subramaniam before the Division Bench of this Court seeking a direction to the Assistant Director, District Land Survey Office, Salem to survey and demarcate the boundaries of the land comprised in T.S. No. 53/3 measuring 1.75 acres situated at Meyanoor Village, Salem District and to further direct the Joint Commissioner Hindu Religious and Charitable Endowments Department, Salem (hereinafter referred to as 'the Joint Commissioner' for short) and the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Salem (hereinafter referred to as 'the Assistant Commissioner' for short) to remove the illegal encroachment of the said property, which was disposed by order dated 14.07.2014, holding as follows:-

" 2. When the matter is taken up for hearing, the learned Government Pleader appearing for the respondent Nos. 2,5,6 and 7 the learned Government Pleader appearing for the respondent Nos. 1,3 and 4 submitted that based upon the representation made by the petitioner, the respondent No. 7 has made the survey. However, the consequential act of demarcation with specific boundaries could not be done



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in view of the objection from the private parties. The learned Government Pleader has submitted that appropriate action should be taken in this regard.

3. *Considering the submissions made, a direction is issued to the respondent No. 7 to complete the demarcation of the boundaries as sought for in the writ petition within a period of eight weeks from the date of receipt of a copy of this order. The other respondents, including respondent Nos. 1, 3, 4, 5 and 6 are directed to take adequate measures to make sure that the respondent No. 7 completes the said job. The respondents are also directed to evict the encroachers by following the procedure known to law."*

(ii) Subsequently, the Division Bench of this Court clarified that order on 16.12.2014 to the following effect:-

" When the matter is taken up, the learned counsel appearing for the writ petitioner in W.P. No. 23452 of 2012, submitted that he is not opposing the implementation order dated 14.7.2014, passed by this court in W.P. No. 16764 of



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2014. The learned Special Government Pleader appearing for the petitioner in M.P. No. 1 of 2014, submitted that in such a case, the order passed will be complied in letter and spirit, wherein the respondent was directed to complete the demarcation of the boundaries as under:

"Considering the submissions made, a direction is issued to the respondent No. 7 to complete the demarcation of the boundaries as sought for in the writ petition within a period of eight weeks from the date of receipt of a copy of this order. The other respondents, including respondent Nos. 1, 3, 4, 5 and 6 are directed to take adequate measures to make sure that the respondent No. 7, completes the said job. The respondents are also directed to evict the encroachers by following the procedure known to law."

2. *Accordingly, it is reiterated that the respondents in W.P. No. 16764 of 2014, within a period of six weeks. The miscellaneous petition is disposed of accordingly."*

(iii) Thiru. R.Arumugam (Petitioner in W.P. No. 880 of 2019 and the Ninth



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Respondent in W.P. No. 35136 of 2023) asserting that the property in his occupation does not belong to Arulmighu Sri Sakthi Mariamman Temple, Meyyanur, Salem (hereinafter referred to as 'the Temple' for short), but private land with patta, had then filed the Writ Petition in W.P. No. 1841 of 2015 challenging the notice dated 21.01.2015 issued by the Fit Person of the said Temple calling upon him to vacate from the property belonging to the said Temple treating him is an encroacher. After taking note of the earlier orders passed by the Division Bench of this Court, the said Writ Petition was disposed by order dated 28.01.2015 on the following terms:-

"5. Pursuant thereof, now 'Fit Person' has issued the impugned notice and the petitioner has come forward with this Writ Petition, challenging the same, stating that he cannot be evicted."

6. Even while issuing the clarification, the Hon'ble Division Bench directed the official respondents to effect the encroachment, by following the procedure in law. Therefore, the petitioner should be afforded an opportunity to putforth



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his contentions.

7. Accordingly, without setting aside the impugned proceedings, the petitioner is directed to appear before the 'Fit Person' of the first respondent Temple on 13.02.2015 at 10.30 a.m. and produce all the records in his possession. Thereafter, the 'Fit Person' shall consider his plea, which can be in writing and thereafter pass order and proceed to consider as to whether any encroachment and pass appropriate orders in accordance with law, as directed by the Hon'ble Division Bench. Till then, the petitioner shall not be dispossessed."

- (iv) The Division Bench of this Court by order dated 28.02.2019 in Contempt Petition No. 19 of 2019 filed for punishing the Respondents for non-compliance of the order dated 14.07.2014 in W.P. No. 16764 of 2014 passed the following order:-

"2. When the matter is taken up for hearing, the learned Government Pleader appearing for the respondent Nos. 2, 5, 6 and 7 and the learned Government Pleader appearing for



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the respondent Nos. 1, 3 and 4 submitted that based upon the representation made by the petitioner, the respondent No. 7 has made the survey. However, the consequential act of demarcation with specific boundaries could not be done in view of the objection from the private parties. The learned Government Pleader has submitted that appropriate action should be taken in this regard.

3. Considering the submissions made, a direction is issued to the respondent No. 7 to complete the demarcation of the boundaries as sought for in the writ petition within a period of eight weeks from the date of receipt of a copy of this order. The other respondents, including respondent Nos. 1, 3, 4, 5 and 6 are directed to take adequate measures to make sure that the respondent No. 7 completes the said job. The respondents are also directed to evict the encroachers by following the procedure known to law."

- (v) The Fit Person of the Temple had issued final notice dated 17.12.2018 to the said Thiru. R.Arumugam and three others, viz., Thiru. Ramesh,



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Thiru. Chinnappan and Thiru. Molayyan, which reads as follows:-

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" சேலம் மாவட்டம், சேலம் மேற்கு வட்டம், மெய்யனூர் கிராமம், அருள்மிகு மாரியம்மன் திருக்கோயிலுக்கு சொந்தமான நிலமானது மேற்படி கிராமம், வார்டு எம், பிளாக் 26, மாநகர புல எண். 58/2-ல் 0.0579.0 ச.மீ. மற்றும் 59-ல் 0.0205.0 சதுர மீட்டர் பரப்பளவுள்ள அருள்மிகு சக்தி மாரியம்மன் திருக்கோயிலுக்கு சொந்தமான இடத்தினை தாங்கள் நில அபகரிப்பு செய்து அனுபவித்து வருவதில், வருகிற 13.10.2016க்கு முன்பாக மேற்படி திருக்கோயில் சொத்திலிருந்து தங்களது முழு உடைமையினையும் எடுத்துக்கொண்டு வெளியேறிக் கொள்ள வேண்டியது. இதில் மேற்கொண்டு எந்தவிதமான கால அவகாசமும் வழங்கப்பட மாட்டாது எனவும், தவறும் பட்சத்தில் மேற்படி சொத்திலிருந்து தங்களை என்றும் இதனால் ஏற்படும் சகல கட்ட நடவடிக்கைகளுக்கும் தாங்களே முழுப்பொறுப்பு ஏற்க நேரிடும் என்பதையும் கடந்த 21.01.2015 மற்றும் 01.07.2016 அன்று அனுப்பப்பட்ட அறிவிப்பு மற்றும் இறுதி அறிவிப்பு மூலமும் முன்னாள் செயல் அலுவலரால் தங்களுக்கு தெரிவிக்கப்பட்டுள்ளது.

இருப்பினும் தாங்கள் மேற்படி திருக்கோயிலுக்குச் சொந்தமான இடத்திலிருந்து வெளியேறாமல், தொடர்ந்து சட்ட விரோதமாக இருந்து வருவது எவ்விதத்திலும் ஏற்படையதல்ல.

எனவே, இனியும் எவ்வித காலதாமதமின்றி, மேற்படி இவ்வறிவிப்பு கிடைக்கப்பெற்ற 48 மணி நேரத்திற்குள் மேற்படி திருக்கோயில்



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சொத்திலிருந்து தங்களது முழு உடமையினையும் எடுத்துக்கொண்டு

வெளியேறிக் கொள்ள வேண்டியது.

இதுவே தங்களுக்கு இறுதி அறிவிப்பாகும் என்றும்

தொரிவித்துக்கொள்ளப்படுகிறது."

The said order is challenged in W.P. No. 880 of 2019 by the said Thiru. R.Arumugam.

(vi) In the Writ Petition in W.P. No. 35136 of 2023 filed by Thiru. A.Radhakrishnan, a direction is sought to dispose his representations dated 11.10.2021 and 29.11.2023 made for safeguarding the properties situate at T.S. Nos. 58/2 and 59, Block No. 26, Ward M, Salem West Taluk belonging to the Temple.

4. It has been brought to notice that Thiru. A.Ramesh, Thiru. K.Chinnappan, Thiru. R.Molayan, Thiru. R.Arumugam (Petitioner in W.P. No. 880 of 2019 and Ninth Respondent in W.P. No. 35136 of 2023) and Thiru. K.Karthikeyan (Tenth Respondent in W.P. No. 35136 of 2023) have filed the suit in O.S. No. 89 of 2015 in District Munsif Court, Salem against the



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Fit Person of the Temple, claiming the following reliefs:-

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21-1-15 by fit person of defendant is illegal, null and void and without jurisdiction.

(ii) granting permanent injunction restraining the defendant and its men from in any way evict, dispossess the plaintiffs 1 to 4 from D. No. 2/207, 2/209, 2/209A, Mariyamman Koil Street in S. No. 53/12, Meyyanor, Salem.

(iii) granting permanent injunction in favour of 5th plaintiff from in any way evict or dispossess from D. No. 2/204 situate in S. No. 53/3-1, Meyyanur, Salem."

5. That apart, another suit in O.S. No. 171 of 2017 in District Munsif Court, Salem has been filed by Thiru. K.Karthikeyan (Tenth Respondent in W.P. No. 35136 of 2023), Thiru. R.Molaiyan, Thiru. K.Chinnappan, Thiru. R.Arumugam (Petitioner in W.P. Nos. 880 of 2019 and Ninth Respondent in W.P. No. 35136 of 2023) and Thiru. A.Ramesh Kumar against the Deputy Commissioner, Hindu Religious and Charitable Endowments Department, Salem, the Assistant Director, District Land Survey, Salem, The Tahsildar,



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Salem West Taluk, Salem and the Fit Person of the Temple claiming the

following reliefs:-

- “(i) Declaring the sub-division effected by the Surveyor of in S. No. 58 of Meyyanoor Village, Salem as illegal, unlawful and null and void.*
- (ii) Set aside the sub-division effected by Surveyor in S. No. 58 of Meyyanoor, Salem.*
- (iii) Granting permanent injunction restraining the Defendants, their men and staffs from in anyway enforce the sub-division in the lands in S. No. 58 of Meyyanoor Village, Salem.”*

6. Inasmuch as the properties forming the subject-matter of the aforesaid suits, which are pending, have been included in the final notice dated 17.12.2018 (which is impugned in W.P. No. 880 of 2019), Learned Counsel appearing for Thiru. R.Arumugam (Petitioner in W.P. No. 880 of 2019 and Ninth Respondent in W.P. No. 35136 of 2023) and Thiru. K.Karthikeyan (Tenth Respondent in W.P. No. 35136 of 2023) submits that the documents



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relied by the Plaintiffs in the pending suits before the Civil Court would also be required to be produced contemporaneously before the Fit Person of the Temple and consequential eviction proceedings under Section 78(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short), if taken, before the Joint Commissioner which would cause severe hardship to them to prove their case relating to title to the property. There is substantial force in the said contention.

7. Having due regard to the principles underlying Section 79(2) of the Act, the Fit Person of the Temple, the Joint Commissioner and the Assistant Commissioner shall dissect the properties said to be belonging to the Temple into the following categories:-

- (i) those forming the subject-matter of the suits in O.S. No. 89 of 2015 and O.S. No. 171 of 2017 before the District Munsif Court, Salem; and
- (ii) those which are not forming the subject-matter of those suits.

8. In this regard, it would be incumbent upon the Tahsildar, Salem West Taluk, Salem (Fourth Respondent in W.P. No. 35136 of 2019) to issue due notice to all persons concerned including the Plaintiffs and Defendants in the pending suits in O.S. No. 89 of 2015 and O.S. No. 171 of 2017 before the



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District Munsif Court, Salem, the Fit Person of the Temple and the Joint

WEB COMMISSIONER and the Assistant Commissioner, for making inspection of the

properties belonging to the Temple with police assistance, if necessary, to ascertain the exact portions claimed by the Plaintiffs in the said pending suits and identify the lands said to be belonging to the Temple with reference to the entries made in the revenue records, which shall be fully videographed at the cost borne by the Temple, and submit his report along with FMB sketch of the entire property to the Joint Commissioner and the Assistant Commissioner. After completing the said exercise, the Joint Commissioner shall, if necessary, initiate the eviction proceedings under Section 78(2) of the Act in respect of lands which are not the subject-matter of the aforesaid pending suits and shall not be precluded from conducting further proceedings following the prescribed procedure in accordance with law to complete the same.

9. In respect of the properties, which form the subject-matter of the aforesaid pending suits, the Fit Person of the Temple, the Joint Commissioner and the Assistant Commissioner would have to await their outcome, depending upon which the further course of action would have to be determined in the matter. Learned Counsel for Thiru. R.Arumugam (Petitioner in W.P. No. 880 of 2019 and the Ninth Respondent in W.P. No. 35136 of 2023) and



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Thiru. K.Karthikeyan (Tenth Respondent in W.P. No. 35136 of 2023)

undertakes to extend full co-operation to expedite disposal of those suits and the District Munsif Court, Salem shall ensure that there is atleast one effective hearing every week showing progress of the cases and monthly reports in that regard are sent till the matter is finally disposed to the Registrar (Judicial) of this Court.

In the result, these Writ Petitions are disposed on the aforesaid terms. No costs.

14.02.2024

Index: Yes/No

NCC: Yes/No

Maya

Note: (i) Issue order copy by 26.03.2024.

(ii) If the monthly reports are not received from the District Munsif Court, Salem or it is reported that there is non-cooperation by the parties for ensuring atleast one effective hearing every week showing progress of the case, the matter shall be listed before the Court with office note and supporting materials without fail.

To

1. The Executive Officer & Thakkar (In charge),
Sitharaj Savadi Arulmigu Subramaniya Samy Thiru Kovil,



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Sevvai Pattai,
Salem Corporation,
Salem
and Arulmighu Mariamman Thiru Koil,
Meyyanur,
Salem – 636 004.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Salem.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.
4. The Collector,
Salem District,
Salem.
5. The Commissioner
Hindu Religious and Charitable Endowments Department
119, Nungambakkam High Road
Chennai – 600034.
6. The Sub Divisional Executive Magistrate cum
Revenue Divisional Officer
Suramangalam
Salem – 636005.
7. The Taluk Executive Magistrate cum Tahsildar
Suramangalam
Salem – 636005.
8. The Assistant Commissioner of Police
Suramangalam
Salem – 636005.
9. The Assistant Commissioner
Hindu Religious & Charitable Endowments Department
Salem Town – 636001.
10. The Fit Person
Arulmigu Sakthi Mariamman Temple
Meyyanur, Salem – 636004.



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Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.
2. The District Munsif Court,
Salem.
3. A.Radhakrishnan,
S/o. T.Arumuga Gounder,
38, Mettu Agraharam,
Salem – 636 001.



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4. K.Govindan,
S/o. C.Krishnan,
Arthanari Gounder Street,
Meyyanur,
Salem – 636 004.
5. R.Arumugam,
S/o. Ramalingam,
Arulmighu Sakthi Mariamman Temple Campus,
Meyyanur,
Salem – 636 004.
6. K.Karthikeyan,
S/o. K.Krishnan,
Arulmighu Sakthi Mariamman Temple Campus,
Meyyanur,
Salem – 636 004.



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P.D. AUDIKESAVALU, J.

Maya

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