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W.P.(MD) No.35068 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P.(MD) No.35068 of 2025
and
W.M.P.(MD) No.27758 of 2025**

C.Archunan
The Secretary
Arul Mighu Sundara Anjaneyar
Kovil Thiruppanikkulu
Bodi Meenakshipuram
Theni - District

... Petitioner

-VS-

- 1.The Chief Engineer (General)
State Highways Authority
Highways Department
Tamil Nadu Government
Chennai
- 2.The Divisional Engineer
State Highways Department
(Construction and Maintenance)
Theni District, Theni



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3.The Assistant Divisional Engineer
Highways Department
Theni District, Theni

4.The Tahsildar
Bodinaickanoor Taluk
Bodinaickanoor
Theni – District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by this 3rd respondent, vide Na.Ka.No.valaku/2025/A1 dated 14.11.2025 and quash the same as not valid and consequently forbearing these respondents from demolishing and removing “Arulmighu Sundara Anjeaneyar Temple” situated in Thirumulapuram - Meenatchipuram road km 2/2 in the right side in S.No.1795, situated in Bodi Meenatchipuram in Bodinaickanur Taluk in Theni District.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

[Order of the Court was made by DR.G.JAYACHANDRAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

3. The petitioner herein claiming as Secretary of the Renovation Committee of Arulmigu Sundara Anjaneyar Kovil, Bodi Meenakshipuram, Theni District, has filed this writ petition challenging the impugned eviction notice, dated 14.11.2025, issued by the Highways Department.

4. According to the petitioner, he is the Secretary of the Renovation Committee, which has renovated the temple situated at the road margin. The Highways Department had not considered the fact that the temple is in existence for a long number of years and being worshipped by the local people without any hindrance to the free flow of traffic in the highways. Infact, the temple is far away from the proposed expansion of the highways.



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However, when they attempted to remove the temple without proper notice, the petitioner approached this Court by way of a writ petition in W.P.(MD) No. 27006 of 2019 seeking a mandamus to the respondents. This Court, by an order dated 11.12.2024, considered the prayer of the petitioner and directed the respondents not to remove the temple without following due process provided under the Tamil Nadu Land Encroachment Act, 1971. Whiles, the present impugned proceedings has been issued under the Tamil Nadu Highways Act, 2001 *per se* contrary to the directions issued by this Court in the earlier writ petition. Further, instead of causing notice to the management of the temple, the impugned notice has been caused to the Secretary of the Renovation Committee, which is responsible only for the renovation works of the temple and not for day-to-day administration of the temple.

5. Learned Special Government Pleader appearing for the respondents would submit that the disputed structure is lying on the Government land near the State Highways land. Earlier, when the petitioner was directed to remove the encroachment, he approached this Court seeking mandamus forbearing the respondents from taking any action without giving prior notice as contemplated under the Tamil Nadu Highways Act, 2001. The



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Division Bench of this Court disposed of the said writ petition recording the apprehension of the petitioner that the official respondents may resort to remove the construction without following due process as contemplated under the Tamil Nadu Land Encroachment Act, 1971.

6. The relevant portion of the order dated 11.12.2024, passed by the Division Bench of this Court in said W.P.(MD) No.27006 of 2019, is extracted hereunder:

“3. The only apprehension of the petitioner is that the official respondents herein would resort to removing the construction, without following the due procedure contemplated under the Land Encroachment Act, 1971.

4. The learned Government Pleader submits that in case there is any encroachment in the subject lands, the same shall be removed, after following the due procedures provided under the Tamil Nadu Land Encroachment Act, 1971. In the light of such a submission, no further orders are required to be passed in this writ petition. ”



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7. In the above circumstances, the impugned notice has been issued by the Highways Department, on 14.11.2025, requesting the petitioner to remove the encroachment within a period of seven days, failing which action for removal of the encroachment will be taken by them.

8. Learned Special Government Pleader appearing for the respondents would further submit that with due reverence to the Court's order, as per per law, a show notice was issued, on 25.04.2025, to the petitioner, who in fact, replied to the show cause notice that he has no role in administering the temple and he is only the Secretary of the Renovation Committee of the temple and he requested the Department to remain in the subject land. However, the said request was rejected by the Divisional Engineer. Having followed the due process of law, the encroacher cannot seek remedy to continue his encroachment in the land owned by the Highways Department.

9. This Court, on perusing the records, finds that, admittedly, the temple has been constructed on the highways land. The order passed by this Court in the W.P.(MD) No.27006 of 2019, dated 11.12.2024, is only a



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protection to the petitioner herein from being evicted from the subject land without following due process of law. From the records, we also find that the show cause notice was issued on 25.04.2025. The petitioner herein has made a representation to the Divisional Engineer disowning his responsibility. Now, again, he has come to this Court saying that he is interested in the temple and the temple should not be removed from the highways land. Encroachments, in whatever form, are hindrance to the public interest and the encroachers need to be evicted after following due process of law. In this case, we find that due process of law has been followed and the temple of the petitioner has to be removed, since admittedly it is on the highways land. Therefore, we find no merit in this writ petition and the same is therefore liable to be dismissed.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.]

[K.K.R.K., J.]

05.12.2025

NCC : Yes / No

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Tamil Nadu Government,
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