



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.(MD)No.14383 of 2015

THARAVILAI HINDU NADAR,
SAMUDHAYAM TRUST, THIRUMENIKUZHIVIZHAI,
THARAVILAI, THICKANAMCODE VILLAGE,
KALKULAM TALUK, KANYAKUMARI 629 162,
REP. BY ITS PRESIDENT,
P.DEVARAJ

.. Petitioner

Vs.

1. THE DISTRICT COLLECTOR,
KANYAKUMARI DISTRICT AT NAGERCOIL.
2. THE DIVISIONAL ENGINEER,
PUBLIC WORKS DEPARTMENT, CONSTRUCTION AND
MAINTENANCE OFFICE,
NAGERCOIL,
KANYAKUMARI DISTRICT.
3. THE ASSISTANT ENGINEER,
PUBLIC WORKS DEPARTMENT,
CONSTRUCTION AND MAINTENANCE OFFICE,
THUCKALAY,
KANYAKUMARI DISTRICT.
4. THE TAHSILDAR,
KALKULAM TALUK, THUCKALAY,
KANYAKUMARI DISTRICT.

5. C.JOHN KENNEDY

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in the impugned proceedings bearing Aa2/108/2015 dated 03/08/2015 of the 4th respondent and quash the same and consequently direct the respondents 1 to 4 not to disturb the petitioner's peaceful possession of the Nellimootu Essakkiamman Temple comprised in re-survey No.749 of Thickanamcode Village (old Thiruvithancode Village), Kanyakumari District.

For Petitioner : Mr.L.Victoria Gowri
For R1 to R4 : Mr.A.Muthu Karuppan
Additional Government Pleader

O R D E R

This writ petition has been filed for a Writ of Certiorarified Mandamus to call for the records in the impugned proceedings bearing Aa2/108/2015 dated 03/08/2015 of the 4th respondent and quash the same



and consequently direct the respondents 1 to 4 not to disturb the petitioner's peaceful possession of the Nellimootu Essakkiamman Temple comprised in re-survey No.749 of Thickanamcode Village (old Thiruvithancode Village), Kanyakumari District.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4.

3. I find that the impugned notice is only a summon directing the petitioner to appear for enquiry on 06.08.2015. The said summon was issued pursuant to the order of this Court in W.P.(MD)No.7788 of 2015, dated 15.06.2015. The said writ petition has been filed by one C. John Kennady for Mandamus directing the respondents to remove the encroachment made in Colachel-Mulagumoodu Road, Thiruvidadancode Channel Poromboke, Tharavilai comprised in Survey No.749, Thiruvidadancode Village, Kalkulam Taluk, Kanyakumari District within a stipulated time that may be fixed by this Court by considering the petitioner's representation dated 31.12.2014.

4. In the said writ petition, the Division Bench has given a direction to the competent authorities to take appropriate action in accordance with law for removal of encroachment, if any, after hearing all the parties, who are likely to be affected. Pursuant to the said order, the present impugned notice has been issued by the fourth respondent.

5. Now, it is the contention of the learned counsel for the petitioner that the petitioner herein is not a party in the said writ petition. The petitioner is not an encroacher and that already there is a decree in favour of the petitioner in the Civil Court. Thus, he sought for quashing the impugned notice.

6. In view of the above, I am of the considered opinion that it is only a summon, to appear for enquiry, issued pursuant to the directions issued by the Division Bench of this Court. Hence, the petitioner can put forth his contention before the fourth respondent. Therefore, I am not inclined to entertain this writ petition and accordingly the same dismissed. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

Sd/-

The Assistant Registrar

/True copy/

Sub-Assistant Registrar

To

1. THE DISTRICT COLLECTOR,
KANYAKUMARI DISTRICT AT NAGERCOIL.
2. THE DIVISIONAL ENGINEER,
PUBLIC WORKS DEPARTMENT, CONSTRUCTION AND
MAINTENANCE OFFICE,
NAGERCOIL,
KANYAKUMARI DISTRICT.



3. THE ASSISTANT ENGINEER,
PUBLIC WORKS DEPARTMENT,
CONSTRUCTION AND MAINTENANCE OFFICE,
THUCKALAY,
KANYAKUMARI DISTRICT.

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4. THE TAHSILDAR,
KALKULAM TALUK, THUCKALAY,
KANYAKUMARI DISTRICT.

+1cc to special Government pleader SR.No.46362

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