



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.10.2015

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WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD) .No.19640 of 2015

and

M.P(MD) No.1 of 2015

K.P.Anil Kumar
Secretary,
Sri Dharma Sastha Kavu Temple Committee,
No.7-3/1, Athira Bhavan,
Atruoor Village, Kanyakumari District. ... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional officer,
Padmanabapuram,
Kanyakumari District.

3.The Tahsildar,
Kalkulam, Thakkalai,
Kanyakumari District. ... Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents to grant permission for the construction of compound wall at Sri Dharma Sastha Kavu Temple, situated in Survey No.66/22 Pallikuzhivilai, Attur Village, Kalkulam Taluk, Kanyakumari District based on the petitioner's application and representation dated 12.06.2015 within the period stipulated by this Court.

For petitioner : Mr.K.Mahendran
For Respondents : Mr.S.Kumar,
Additional Government Pleader
takes notice

ORDER

<https://hcservices.ecourts.gov.in/hcservices/> Petition has been filed praying for a Writ of Mandamus, directing the respondents to grant permission for the construction of compound wall at Sri Dharma Sastha Kavu Temple,

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3. By consent, the Writ Petition itself is taken up for final disposal.

<https://nces.secdarts.no.1849services/>



District Collector as per the provisions in the District Municipalities Act. Hence, to make a construction in the Kavu temple, this Court directed the parties to get permission from the District Collector and injected not to construct any temple in the Kavu without getting approval from the District Collector. The said Judgment was challenged before the Supreme Court of India in S.L.P.No.9059 of 2009 and the Hon'ble Apex Court by its order, dated 14.09.2009 clarified in para 4 of the judgment that the High Court in S.A.No.849 of 2007 did not reject the petitioners claim. Judgement in S.A.No.849 of 2007, dated 18.06.2008 does not prevent from making any addition after obtaining permission from District Collector. The said Kavu and the surrounding areas are surrounded by many number of Medicinal and Ayurvedic effected trees and also the temple should be surrounded by such type of trees to give proper blessings to the devotees of the temple. After the said judgment, the miscrediants started to give trouble to the temple by cutting the trees and its branches which resulted in giving criminal complaints. To avoid such criminal activities and also to maintain safety to the temple, the temple committee decided to construct a compound wall and approached the respondents for their approval based on the High Court and the Supreme Court judgment. The petitioner's sincere efforts to obtain permission for the construction of compound wall went futile. Hence, the petitioner has made a representation to the respondents on 12.06.2015. Since the same was not disposed of till date, the petitioner has come forward with this Writ petition for the above stated relief.

5. Considering the facts and circumstances of the case, without going into the merits of the case, this Court directs the first respondent to consider the representation of the petitioner, dated 12.06.2015 and pass appropriate order with regard to granting permission for the construction of compound wall at Sri Dharma Sastha Kavu Temple, situated in Survey No.66/22, Pallikuzhivilai, Attur Village, Kalkulam Taluk, Kanyakumari District, on merits and in accordance with law, by affording an opportunity of hearing to all the necessary parties, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion on the merits of the claim made by the petitioner.

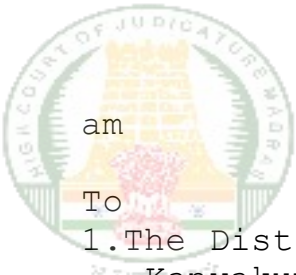
6. With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar



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To

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional officer,
Padmanabapuram,
Kanyakumari District.

3.The Tahsildar,
Kalkulam, Thakkalai,
Kanyakumari District.

+1CC to Mr.K.Mahendran Advocate Sr.No.63965

+1CC to Spl.Government Pleader Sr.No.63873

GJM/AAL/MPA/15.12.2015-4P-6C

W.P (MD) .No.19640 of 2015
29.10.2015