

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.9.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22886 of 2016
and
W.M.P.Nos.19569 and 24821 of 2016

Arulmigu Angalamman Temple
Rep. by its Trustee/ President
R.Punniyamoorthy, S/o. Ramasamy,
Vadavetti Ranganathapuram
Mettu Theru Sathampadi Village
Melmalayanur Taluk
(Formerly Gingee Taluk)
Villupuram

Petitioner

Versus

- 1 The District Collector of
Villupuram
Collector Office Villupuram
- 2 The Sub Collector of
Tindivanam
Sub Collector's Office
Tindivanam Villupuram District
- 3 The Tahsildar
Melmalayanur Taluk
(Formerly Gingee Taluk)
Gingee Villupuram District

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of the 2nd respondent in Proceeding No.Naa.Kaa.Aa.3/3482/2015 dated 23.05.2016 and quash the said proceedings dated 23.05.2016 issued therein.

For petitioner : Mr.G.Veerapathiran

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the counsel appearing for the parties.

2. The writ petitioner-Temple has been sought to be evicted on the ground of encroachment. The petitioner had already filed a writ petition in W.P.No.33696 of 2015 wherein, the petitioner was granted a liberty to file an appeal before the District Collector and accordingly, an appeal was filed by the petitioner before the second respondent, wherein, an order of stay was granted by the second respondent. Whiles, it appears that the present impugned notice has been issued against the writ petitioner and hence, the present writ petition has been filed.

3. When the matter came up for admission, an order of interim stay was granted for a period of eight weeks while issuing notice to the respondents. The third respondent has filed the counter affidavit contending that though initially, the second respondent had granted an order of interim stay on 3.12.2015, in the appeal filed by the writ petitioner, the impugned order is passed based on the order dated 6.8.2014 passed in W.P.No.1496 of 2014 by the Madurai Bench of this court.

4. It appears that before passing such impugned order, neither the petitioner was heard nor any report was received the Tahsildar to find out whether any water body is encroached. This court is of the view that the issue requires to be re-considered by the District Collector on obtaining a report. Therefore, the writ petition is disposed of with a direction to the respondents to re-consider the issue by obtaining further report from the Tahsildar concerned and after affording an opportunity of hearing to the writ petitioner, within a period of two months from the date of receipt of copy of this order. Till then, status quo shall be maintained by the parties. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

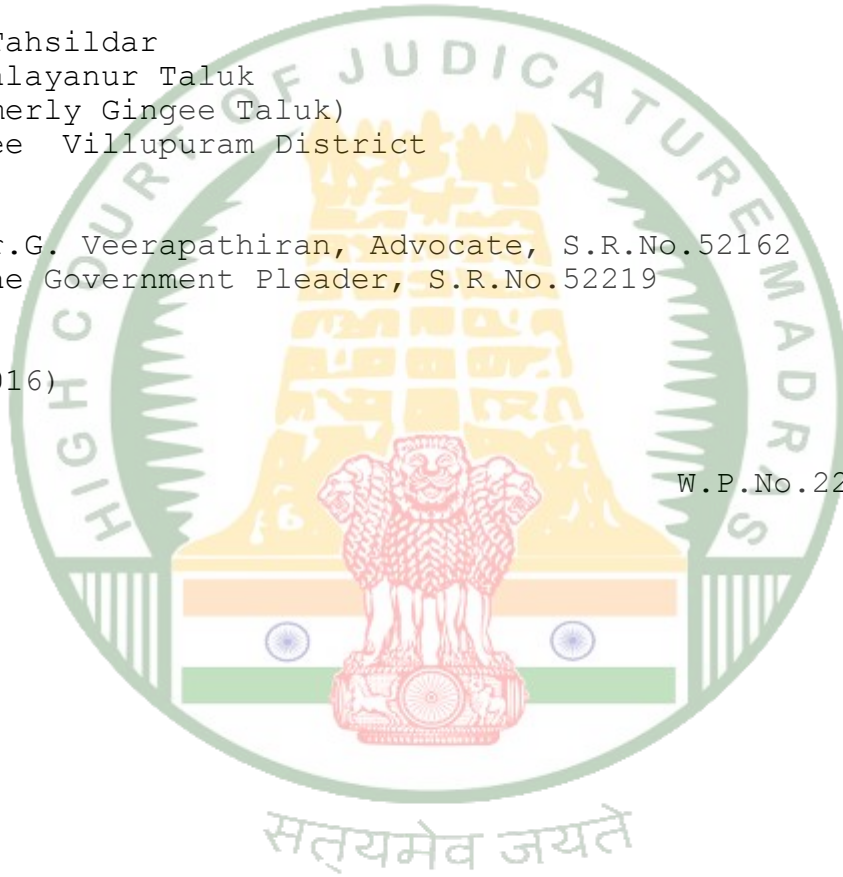
To:

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- 3 The Tahsildar
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Gingee Villupuram District

+1cc to Mr.G. Veerapathiran, Advocate, S.R.No.52162
+1cc to the Government Pleader, S.R.No.52219

GR(CO)
EU(1/11/2016)

W.P.No.22886 of 2016



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