

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 29118 of 2016

A. Radhakrishnan ..Petitioner/in Person

Vs.

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.
 2. The District Collector,
Salem District,
Salem - 636 001.
 3. The Taluk Executive Magistrate
and Tahsildar,
Salem - 636 001.
 4. The Commissioner of Police,
Salem - 636 002.
 5. The Assistant Director (Survey),
Salem - 636 001.
 6. The Commissioner,
Salem City Municipal Corporation,
Salem 636 007.
 7. The Member Secretary,
Local Planning Authority,
Salem - 636 005.
- ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 6 and 7 to remove the obstruction of drainage around Rajaganapathi Temple, Car Street, Salem Town, Salem.

For Petitioner :: Mr.A. Radhakrishnan
Party in Person

For Respondents:: Mr.T.M. Pappiah,
Special Govt. Pleader
for R1 to R5 and R7
Mrs.K. Bhuvaneshwari for R6

O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing respondents 6 and 7 to remove the obstruction of drainage around Rajaganapathi Temple, Car Street, Salem Town, Salem.

2. The petitioner is a Trustee of Arulmighu Sugavaneswarar Thirukoil, Salem. The Rajaganapathi Temple is under the control of HR and CE Department and is a sub-temple of Sugavaneswarar Temple. According to the petitioner, the obstruction in drainage around the temple is causing health hazard and besides, some third parties have encroached upon the road and the surrounding area of the temple, which is meant for devotees of the temple as well as for traffic. Therefore, the petitioner made a representation on 25.08.2014 over phone to the 2nd respondent and the 2nd respondent, in turn, directed the Executive Engineer, City Health Officer and Assistant Commissioner of Corporation, Ammapet Zone, Salem, to conduct joint inspection and to send report regarding the requirement of the temple. After inspection, the authorities gave assurance that the obstruction in drainage would be removed, on or before 29.08.2014. Based on the said inspection, subsequently, the temple administration gave a requisition dated 26.08.2014 to the 6th respondent with regard to the same. Since no action was taken to remove the obstruction in drainage, the temple administration sent a letter on 21.07.2016 to the 6th respondent and other officials concerned in regard thereto. As there was no response, the petitioner has come before this Court seeking the aforesaid relief.

3. Heard Mr.A. Radhakrishnan, the petitioner appearing as party-in-person, who would submit that due to the obstruction in drainage, the devotees of the temple are put to great hardship and the encroachments made are causing nuisance to the temple administration as well as to the general public, especially, the pilgrims. Eventhough the 2nd respondent, District Collector, had instructed respondent 2 to 7 to take action to remove the obstruction in drainage, nothing had been done. The Assistant Commissioner/Executive Officer (HR & CE), attached to the Temple, had also written to the 6th respondent, on 26.08.2014 requesting

to remove the obstruction in drainage, which was followed by another requisition on 21.07.2016. Thereafter, the District Collector had written to the 6th respondent on 22.07.2016 to remove the obstruction in drainage so as to prevent any health hazard from being caused to the public.

4. Mr.T.M. Pappiah, learned Special Government Pleader, who took notice on behalf of respondents 1 to 4 and 7 and Mrs. A. Bhuvaneswari, learned counsel, who took notice on behalf of respondents 5 and 6 undertook to instruct the authorities to remove the obstruction in the drainage as well as to remove the encroachments.

5. When the matter was called on 26.08.2014, it was informed that the process of evicting the encroachers was under way and the obstruction in the drainage had been removed. Mr. Radhakrishnan, party-in-person, would, however, submit that the work had just commenced and it was yet to be completed. Therefore, this Court granted time till today to complete the work and report before this Court.

6. Accordingly, when the matter is called today, the petitioner, appearing as party-in-person would submit that the authorities have acted promptly pursuant to the orders passed by this Court and the encroachments as well as the obstruction in the drainage have been removed. The photographs produced by the 6th respondent would show that action has been taken against the encroachers. Even the structures put up by the encroachers have been demolished and the area is made free of encroachments for the benefit of the devotees as well as general public.

7. Though the relief sought by the petitioner has been complied with, the petitioner apprehends that after sometime, encroachments may crop up again and the encroachers may squat upon the property, causing hardship and inconvenience to the pilgrims. In this regard, the petitioner referred to the communication of the 2nd respondent dated 22.07.2016 addressed to the 6th respondent asking him to take steps to remove the encroachments and make arrangements to ensure hygienic conditions, in the area surrounding the temple and seeks a direction from this Court, in this regard, to prevent the recurrence of the situation.

8. It is evident that as of now, the encroachments as well as obstruction in the drainage have been removed. Though action has been taken now, it is the bounden duty of the respondents to see that the situation does not recur and the encroachments do not crop up again, causing hardship and inconvenience and giving rise to health hazards. Therefore, there shall be a direction to

the respondents to keep the area, surrounding the temple, free of encroachments and without any obstruction in the drainage even in future. The writ petition is disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Secretary to Government,
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Salem 636 007.
 7. The Member Secretary,
Local Planning Authority,
Salem - 636 005.
- 1 cc to M/s.U.Bhuvaneswari, Advocate, sr.50081
1 cc to Mr.A.Radhakrishnan, Advocate, sr.49350
1 cc to Government Pleader, sr.49834

WP 29118/2016.

pur co
kra 27.09.2016