



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P (MD) No.16878 of 2016
and
W.M.P (MD) No.12245 of 2016

A.Vembaiah

.. Petitioner

Vs.

1.The Commissioner,
Karaikudi Municipality,
Karaikudi,
Sivagangai District.

2.The Administrative Committee,
Sri Valla Maha Ganapathy Temple,
East Street, Kandanoor Road,
Karaikudi Town,
Sivagangai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondent No.1 to forbear the Respondent No.2 from constructing any compound wall or any other permanent structure in public pathway, which is used by the general public at ward No.18, East Street, Kandanoor Road, Karaikudi Town, Sivagangai District and consequently direct the Respondent No.1 to remove the encroachments made by Respondent No.2 in around the temple of Sri Valla Maha Ganapathy Temple which is situated in Ward No.18 East Street, Kandanoor Road, Karaikudi Town, Sivagangai District.

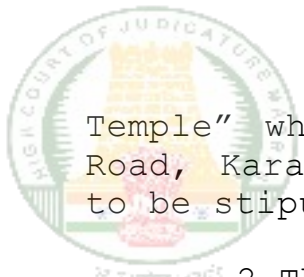
For Petitioner

: Mr.T.Lajapathi Roy

ORDER

[Order of the Court was made by S.NAGAMUTHU, J]

The petitioner has come up with this Public Interest Litigation, seeking a direction to the first respondent to forbear the second respondent from constructing any compound wall or any other permanent structure in the public pathway, which is used by the general public, at Ward No.18, East Street, Kandanoor Road, Karaikudi Town, Sivagangai District and consequently to direct the first respondent to remove the encroachments made by the second respondent in and around the temple of "Sri Valla Maha Ganapathy



Temple" which is situated in Ward No.18, East Street, Kandanoor Road, Karaikudi Town, Sivagangai District, within the time frame to be stipulated by this Court.

2. This Public Interest Litigation has come up today for admission. We have heard the learned counsel appearing for the petitioner. We have not issued any notice to the respondents. However, this writ petition is disposed of, on merits.

3. A perusal of the representation made by the petitioner dated 18.03.2014 would go to show that the temple in question has been in existence for more than sixty years. It appears that the entire villagers have joined together to make some flooring around the compound wall, which is used by the people of the village and the devotees of the temple. In our considered view, this encroachment appears to be a non-objectionable encroachment for the first respondent, that is the reason why, they have allowed the temple to be constructed sixty years ago and the same has been in existence. After all, these kinds of activities by the villagers, are for the purpose of serving the cause of the public to maintain harmony among the people. Under the guise of removal of encroachment, we cannot disturb the peace and harmony among the people of the village. This is not a case, where an individual has made any encroachment. The entire villagers, who constructed the temple, have laid flooring around the compound wall, which is not objectionable to the first respondent. In such view of the matter, the relief sought for in the writ petition cannot be granted and accordingly this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To
The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District.
+One cc to Mr. T. Lajapathi Roy, Advocate, SR.No.50898

smn

RL/3C/2P/DB/19/9/2016

ORDER MADE IN

W.P (MD) No.16878 of 2016
and

W.M.P (MD) No.12245 of 2016
07.09.2016