

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

And

THE HON'BLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.30352 of 2017

and

WMP.Nos.33084 and 33085 of 2017

M/s.Naalvar Charitable Trust,
Rep. by its Managing Trustee,
A.M.Venkidusamy. ... Petitioner

vs.

- 1.The District Collector,
Erode, Erode District.
- 2.The Tahsildar,
Taluk Office, Anthiyur, Erode District.
- 3.The Assistant Divisional Engineer,
Highways Department,
Bhavani, Erode District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the 3rd respondent proceedings made in No.Nil dated 28.09.2017 and Na.Ka.No.18/2017/ENU dated 30.10.2017 and to quash the same and consequently direct the respondents to regularize the Anandhavalli Semeda Chandrasekar Temple, situated at Survey No.422/2 Thiruvalluvar Nagar (Odaimedu), Athani, Anthiyur Taluk, Erode District.

For Petitioner :Mr.L.Chandrakumar

For Respondents:Mr.A.N.Thambidurai,
Special Government Pleader for R1 to R3

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims to be the Managing Trustee of M/s.Naalvar Charitable Trust, having office at Anandhavalli Semeda Chandrasekarar Temple Camus, Thiruvalluvar Nagar, Athani, Anthiyur Taluk, Erode District and he would aver that

the main object of the said Trust is to contribute for the welfare of the public and development of temples in Tamil Nadu and to promote the cause of education of poor and down trodden children. The petitioner would further aver that in the lands in S.No.422/2, Thiruvalluvar Nagar, Government School Building, Noon Meal Centre, Government Health Centre, Water Tank and Ananthavalli Sameda Chandrasekarar Temple, which is 200 years old, are located and the said superstructures lies on the northern side of Sathyamangalam to Bhavani State Highways and the location of the said superstructures have not created any obstruction for the free movement of traffic. The petitioner would further aver that the said School Building, Noon Meal Centre, Government Health Centre which are located in S.No.422/2 are functioning for nearly three decades and the temple which is in existence for 200 years was also renovated about 15 years back and the presiding deity is the family deity of the residents of the said place.

3. The petitioner would further state that as per the proceedings of the District Review Committee, appointed to review the encroachments made in the entire Erode District in Na.Ka.No.7501/2017 dated 07.09.2017, there are encroachments in respect of the State Highways and for removal of such encroachments, Tvl. M.Selvakumar and 3 others had filed W.P.Nos.17751 to 17754 of 2017, praying for appropriate direction directing the third respondent herein to comply with the order dated 06.04.2017 in Na.Ka.No.7501/2017/02 passed by the Review Committee, Erode and vide common order dated 13.07.2017, the said writ petitions were disposed of, directing the respondents 2 to 5 therein to take cognizance/note of the proceedings of the Erode District Review Committee dated 06.04.2017 and take appropriate action in accordance with law within a stipulated time frame and communicate the decision taken to the petitioners as well as the encroachers and in compliance of the said order, the third respondent has issued the impugned notice dated 30.10.2017 and challenging the legality of the same, the present writ petition is filed.

4. Mr.L.Chandrakumar, learned counsel appearing for the petitioner has drawn the attention of this Court to the materials placed as well as the photographs produced and would submit that it is not in serious dispute that the temple is in existence for 200 years in S.No.422/2, Thiruvallur Nagar, Anthiyur Taluk, Erode District and as of now, Government School Building, Noon Meal Centre, Government Health Centre, Water Tank and temple are also located and no useful purpose would be served by merely removing the temple on the State Highways and would further add that unless and until the entire constructions/superstructures put up in S.No.422/2 are demolished, the alleged extension of the State Highways is not at all possible and prays for interference.

5. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit of the third respondent and would submit that lands in S.No.422 admeasure to a total extent of 1.40 Hectares and in the year 1972, subdivision of the said survey number was done and it was subdivided into S.No.422/1 and S.No.422/2 and S.No.422/1 having an extent of 0.80 Hectares belongs to Local Body and S.No.422/2, having an extent of 1.08 Hectares belongs to Highways Department and on the said lands in S.No.422/2, Government School Building, Noon Meal Centre, Government Health Centre and Water Tank and Temple are located and since the temple is admittedly situated in the lands belonging to the State Highways, action is taken strictly in accordance with law. It is also brought to the knowledge of this Court by the learned Special Government Pleader that the third respondent, vide order dated 30.10.2017, has rejected the representation dated 27.10.2017 submitted by the petitioner.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. In the light of the stand taken by the third respondent in Para Nos.4 and 7 of the counter affidavit and taking into consideration the specific case of the petitioner that the temple is in existence for nearly 200 years in S.No.422 and after subdivision into S.No.422/2, many public buildings have come into place, the petitioner is permitted to give a fresh representation to the third respondent along with a copy of this order as well as relevant documents, within a period of four weeks from the date of receipt of a copy of this order and the third respondent, upon receipt of the same, shall afford opportunity of personal hearing to the petitioner and dispose of the representation on merits and pass orders in accordance with law within a period of twelve weeks thereafter and communicate the decision taken, to the petitioner.

8. It is made clear that till the disposal of the representation to be submitted by the petitioner, the third respondent shall defer further decision in respect of removal of the temple in question and the petitioner also shall not further encroach upon State Highways.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Erode, Erode District.

2.The Tahsildar,
Taluk Office, Anthiyur, Erode District.

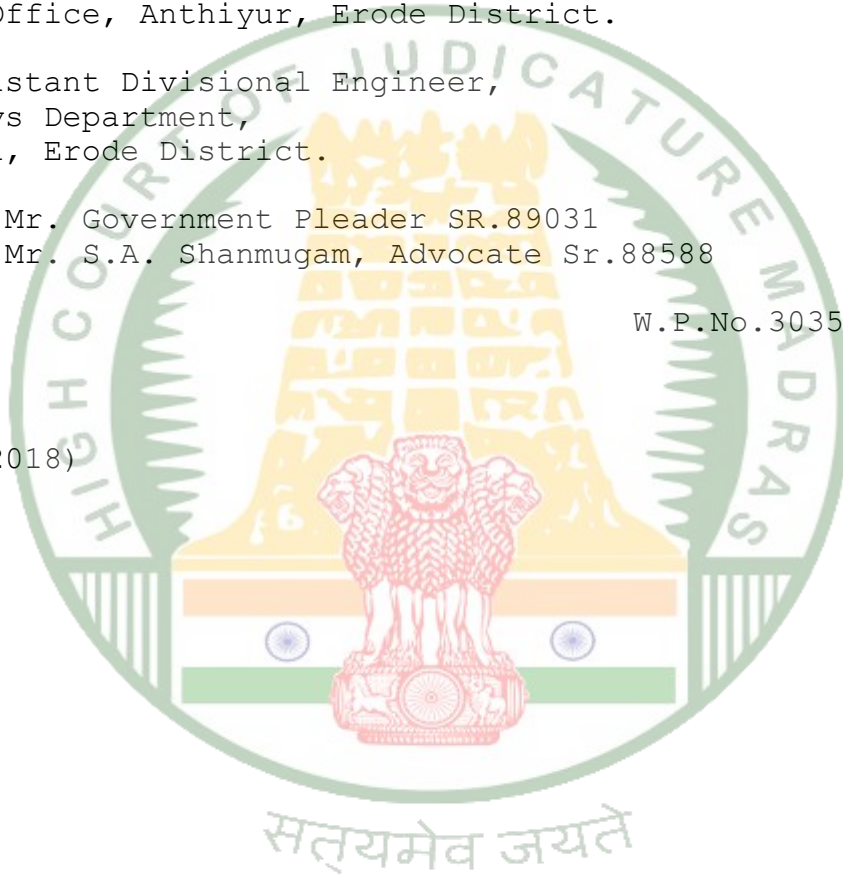
3.The Assistant Divisional Engineer,
Highways Department,
Bhavani, Erode District.

+ 1 cc to Mr. Government Pleader SR.89031

+ 1 cc to Mr. S.A. Shanmugam, Advocate Sr.88588

W.P.No.30352 of 2017

(AR-J)
EU(04/01/2018)



WEB COPY