

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI
WP.No.31455/2017

P.Chennaiyan

.. Petitioner

Versus

1.The District Collector
Krishnagiri District.

2.The Tahsildar
Uthangarai Taluk
Krishnagiri District.

3.Shanmugam

.. Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents 1 and 2 to consider petitioner representation dated 02.11.2017 to remove the illegal encroachment by the 3rd respondent in Survey No.148/2A of Salamarathupatti village, Uthangarai Taluk, Krishnagiri District within a stipulated time as may be fixed by this Court.

For Petitioner : Mr.K.Thiruvengadam
For RR 1 & 2 : Mrs.M.E.Rani Selvam, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2.

2 The petitioner claims to be a resident of Salamarathupatti village and post, Uthangarai Taluk, Krishnagiri District and according to him, his forefathers had constructed a small Vinayagar Temple in his village and it is in existence right from the year 1950 and it is located in Gramanatham Survey No.148/2A, which admittedly belongs to the Government. The Village "A" Register also shows as to the existence of the said temple on the above said land. It is the specific case of the petitioner that the 3rd respondent has encroached upon the said temple land belonging to the Government and had constructed a

shed and started storing several materials and in this regard, the petitioner has submitted a representation dated 02.11.2017 to the respondents 1 and 2 to abate the said nuisance and despite receipt and acknowledgment,

no orders have been passed so far and hence, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that no doubt the temple is located on the Government land and however, it is in existence for very many years and the 3rd respondent who has no right whatsoever, has encroached upon a part of the temple land and put up a shed and therefore, the encroachment caused by him is to be removed forthwith.

4 Per contra, Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that admittedly, the temple is located on the Government land and it is also in the form of an encroachment though existing for very many years and the stand taken by the petitioner that the 3rd respondent has encroached upon a part of the temple land, may not be sustainable as the temple itself is located on the Government land by way of encroachment.

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

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the 2nd respondent to put the 3rd respondent on notice and after eliciting his response, shall consider and dispose of the petitioner's representation dated 02.11.2017 in accordance with law and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein.

8 The writ petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

AP

To

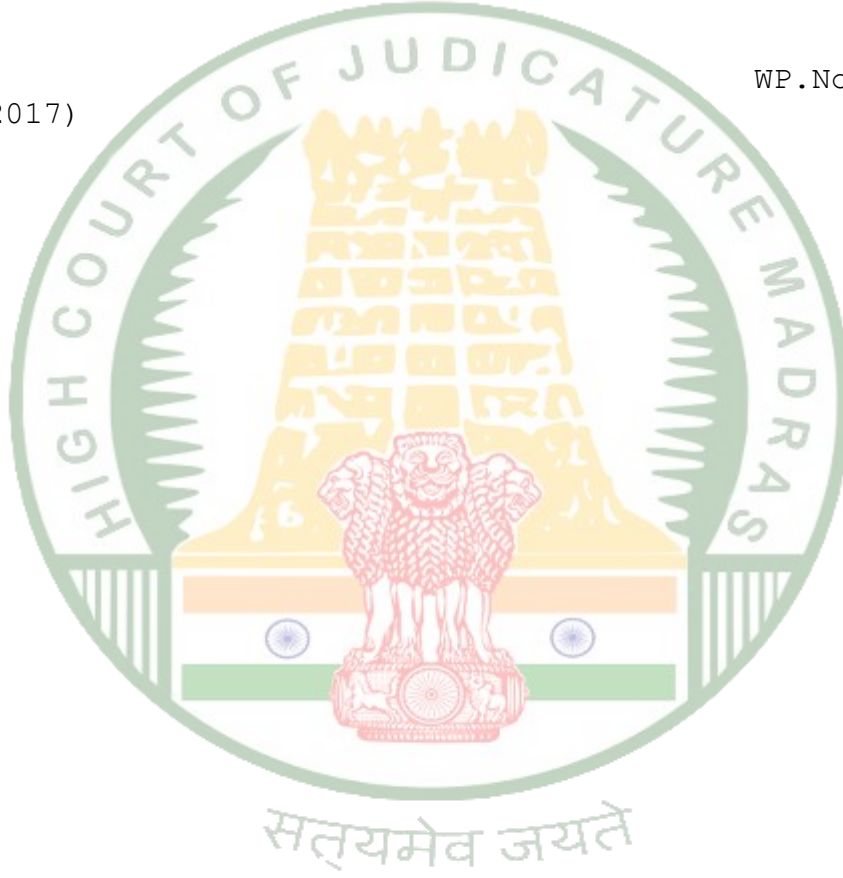
1.The District Collector
Krishnagiri District.

2.The Tahsildar
Uthangarai Taluk
Krishnagiri District.

+lcc to Mr.K.Thiruvengadam, Advocate SR.No.86488
+lcc to Government Pleader SR.No.86796

GN(21/12/2017)

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