

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.22848/2017 & WMP.No.24017/2017

V.Paramasivam

..

Petitioner

Vs

1.The District Collector
Ariyalur District,
Ariyalur.

2. The Tahsildar,
Tahsildar Office,
Sendurai, Ariyalur District.

..

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus, calling for the records pertaining to the impugned order dated 03.08.2017 on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to consider the petitioner's appeal dated 11.08.2017.

For Petitioner
For RR 1 to 3

: Mr.K.Murugesan
: Mr.P.Sanjay Gandhi,
Additional Government Pleader

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2.

2 One Mr.Sankar, filed a writ petition in WP No.10248 of 2017 against the District Collector, Ariyalur District; the District Revenue Officer, Udayarpalayam Region, Ariyalur District, the Revenue Tahsildar, Ariyalur District and the Village Administrative Officer, Ariyalur District and also against one Mr.Chinnathambi and Ramachandran and other private respondents, praying for issuance of writ of Mandamus directing the respondents 1 to 3 to remove the encroachment in water course poramboke in Survey No.262 in terms of the Judgment reported in *2015 (6) CTC 369* [T.K.Shanmugam V. The State of Tamil Nadu] ; but the Hon'ble First Bench of this Court vide order dated 25.04.2017 has directed the District Collector to look into the issue and cause inspection of the above said land and take appropriate action in accordance with law within a stipulated time.

3 The learned counsel appearing for the petitioner would submit that the petitioner is merely renovating the temple and in the absence of any materials to show that the land in question is being classified as water body, the official respondents cannot take any action and therefore, prays for appropriate orders.

4 *Per contra*, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents would submit that in compliance of the order passed in WP No.10248 of 2017, action is being taken and since the petitioner is having an effective remedy under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, the writ petition is not maintainable and therefore, prays for dismissal of this writ petition.

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

5 Rule 2[g] of the Tamil Nadu Panchayat Buildings Rules, 1997, defines the "public building"" and as per rule 2 (g)(c) (ii) "public or any class or section of the public for religious worship or for religious congregation" and it appears from the materials placed

before this Court that no such permission has been accorded to the petitioners, for renovating the temple and the photographs enclosed in the typed set of documents would reveal that a new construction in the form of temple is being put up. Be that as it may, the petitioner has submitted a representation dated 11.08.2017 to the 2nd respondent and copies marked to the 1st respondent and official respondents.

6 This Court, in the light of the above facts and circumstances and without going to the claims projected by the petitioner, directs the 2nd respondent to put Mr. Sankar - the petitioner in WP No.10248 of 2017 on notice and thereafter consider and dispose of the petitioner's representation dated 11.08.2017 on merits and in accordance with law and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order and till such time, the 2nd respondent, shall defer further proceedings in terms of the impugned notice dated 03.08.2017. The petitioner or anybody claiming right over the property, shall not proceed with the construction or renovation of the temple on the land in question till the disposal of the representation by the 2nd respondent .

7 The writ petition stands disposed of. No costs.

Consequently, the connected miscellaneous petition is also closed.

[M.S.N., J.,]

[N.S.S., J]

28.08.2017

Index : No

Internet : Yes

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To

1.The District Collector
Ariyalur District,
Ariyalur.

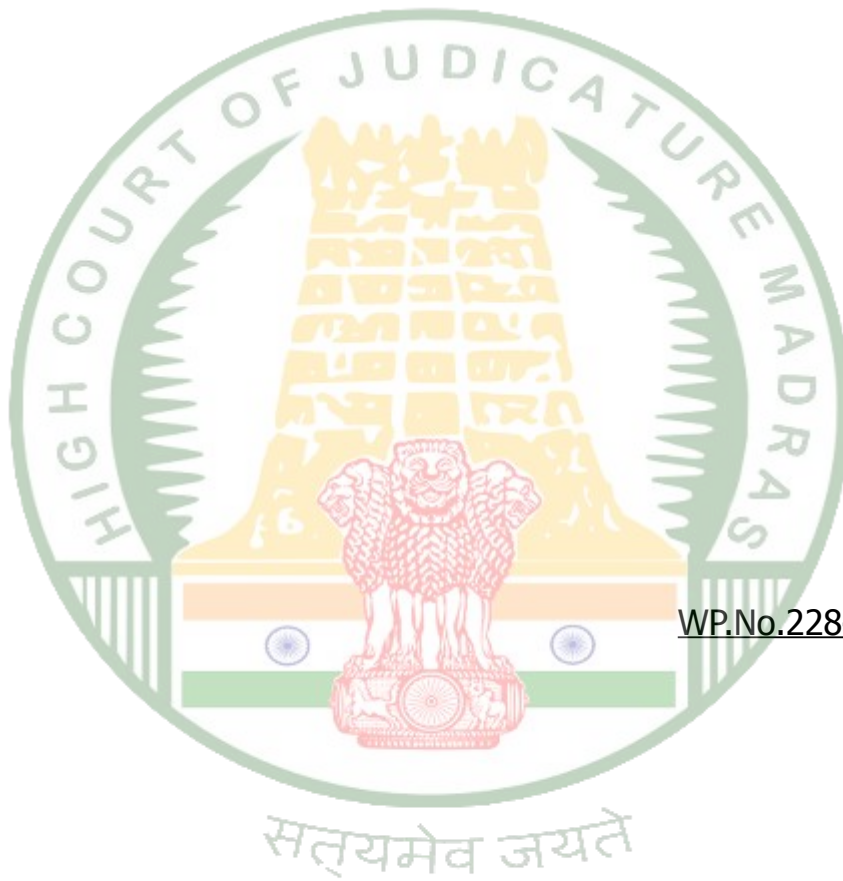
2. The Tahsildar,
Tahsildar Office,
Sendurai, Ariyalur District.



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M.SATHYANARAYANAN, J.,
and
N.SESHASAYEE, J.,

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