



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9308 of 2014

and

M.P.(MD) Nos.2 and 3 of 2014

1.P.Perumal

2.P.Sadaiyandi

... Petitioners/Petitioners

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam Post,
Theni District.

3.The Executive Officer,
Uthamapalayam Town Panchayat,
Uthamapalayam Post and Taluk,
Theni District.

4.V.M.Abudahir

... Respondents/Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3, to restrain from demolishing the Hindu Temple viz. Madasamy Peetam Temple and more than 60 years old Coconut Trees that are existing at the fag blind end of the Abdul Khader Rice Mill Lane situated at survey No. 850 Ward No. 15 in Uthamapalayam Town, Uthamapalayam Taluk Theni District without due process of law and following the principle of natural justice as per directions issued by this Court in the order dated 06.01.2014 in WP(MD) NO. 13080 of 2012 and inspection of the alleged encroachment, enquiry with the petitioners residents and worshipers of the said temple and consequently permit the petitioners and other public to continue to worship at the Madasamy Peetam temple situated at the Abdul Khader Rice Mill Lane in survey No.850, Ward No.15 in Uthamapalayam Town, Uthamapalayam Taluk, Theni District.



For Respondents: Mr.T.S.Md.Mohideen, A.G.P. For RR1 & 2
Mr.V.Muruganantham for R3

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

This writ petition has been filed for restraining the respondents 1 to 3 from demolishing a temple and the coconut trees that are situated at the fag blind end of Abdul Khader Rice Mill Lane at S.No.850, Ward No.15 in Uthamapalayam Town, Uthamapalayam Taluk, Theni District.

2.The third respondent has filed counter affidavit, in which, it has been mentioned that the Peetam of Madasamy temple is situated 10 feet away and that it does not hinder the usage of public pathway.

3.On the other hand, other encroachment put up by the petitioner by erecting wall and putting gate and lock are the obstructions of the pathway in question.

4.This submission of the third respondent is placed on record. We therefore dispose of this writ petition by restraining the respondents 1 to 3 from demolishing the Peetam alone. As far as other encroachments are concerned, it is certainly open to the respondents 1 to 3 to take appropriate action in accordance with law for removal of the encroachments.

5.The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/Truecopy/

Sub Assistant Registrar

To

1.The District Collector,Theni District,Theni.

2.The Tahsildar,

Uthamapalayam Taluk,Uthamapalayam Post,Theni District.

3.The Executive Officer,

Uthamapalayam Town Panchayat,

Uthamapalayam Post and Taluk,Theni District.

+1cc to M/S.A.THIRU MURTHY, Advocate SR.No.69197

+1cc to Special Government Pleader, SR.No.69718

skm/Arul

MAS/KP/SAR2:22.08.2017:2P-6C

W.P(MD)No.9308 of 2014

31.07.2017