

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 19.07.2017****CORAM:**

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.2427 of 2017

Nicholas

: Petitioner

Vs.

1. The District Collector,
(Inspector of Panchayat),
Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Radhapuram,
Tirunelveli District.

3. The Executive Officer,
Thisayanvilai,
Tirunelveli District.

4. Lawrance

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner's complaint dated 10.08.2012 to prevent the illegal construction by the fourth respondent in the place mentioned as "பொது உபயோகம்" in S.No.23/2C, 5B as per the layout given by the second respondent herein, which is situated at Thisayanvillai village, Radhapuram Taluk, Tirunelveli District within the time limit stipulated by this Court.

For Petitioner	: Mr.J.C.Rathnavel Pandian
For Respondents 1 and 2	: Mr.M.Govindan Special Government Pleader
For Respondent No.3	: Mr.S.Kumar
For Respondent No.4	: Mr.P.Banu Prasath

**O R D E R**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Writ Petition in *pro bono publico* to direct the respondents 1 to 3 to remove the encroachment stated to have been made by the fourth respondent.

2. It is the case of the petitioner that in a property shown as a public place, the fourth respondent constructed a temple. The petitioner, therefore, submitted a representation to the authorities to remove the encroachment. Since follow-up action was not taken, the petitioner has come up with this Writ Petition.

3. The fourth respondent filed a counter-affidavit, wherein it was indicated that the land in question was assigned for a public purpose. In accordance with the assignment, a temple was constructed. According to the fourth respondent, there is no encroachment, as contended by the petitioner.

4. The learned counsel for the petitioner contended that the authorities have no right to assign public property in favour of the fourth respondent. According to the learned counsel, the public property should be kept in common for all the people and as such, it was not correct to construct a Temple.

5. There is no dispute that the temple was constructed in a common property. The property was earmarked and used as public property. It is not the case of the petitioner that the temple was constructed by a particular person and it is not open to public. Since it is a public temple open to worship by all the people, it cannot be said that the fourth respondent encroached upon the Government land and put up the Temple. We, therefore, do not see any reason to issue a Mandamus, as prayed for by the petitioner.

6. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
(Inspector of Panchayat),
Tirunelveli District,



2. The Tahsildar,
Radhapuram,
Tirunelveli District.

3. The Executive Officer,
Thisayanvilai,
Tirunelveli District.

+1cc to Mr.P.Banu Prasath, Advocate SR.No.66250

SML/TSG

VB/GT/SAR4/31.07.2017/3P/5C

Order made in
W.P. (MD) No.2427 of 2017
19.07.2017