



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM:

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

W.P. (MD)No.14168 of 2016

Shantha Moorthy

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Principal Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat, Fort.St.George, Chennai.
2. State of Tamil Nadu
Rep. by its Principal Secretary,
Revenue Department,
State of Tamil Nadu,
Secretariat,
Fort.St.George, Chennai.
3. The Director of School Education,
Office of the Director of School Education,
DPI Complex, College Road,
Nungampakkam, Chennai.
4. The District Collector,
Office of the District Collector,
Madurai District.
5. The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
6. The Chief Educational Officer,
Office of the Chief Educational Officer,
Thallakulam,
Madurai District.
7. The District Educational Officer,
Melur Educational District,
Melur, Madurai District.



8. The Head Master,
Government Girls Higher Secondary School,
Ottakadai at Ulaganeri,
Madurai District.

9. Malaichamy

10. Kannagi

11. S. Sathis

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 7 to remove the illegal encroachment by the respondents 9 and 11 from the land in Narasingam 4th bit Survey Number 147/1B comprising 2 acres and 82 cents which allotted to the Y.Othakadai Government Higher Secondary School at Ulaganeri, Narasingam Panchayat, Madurai District and to direct the respondents 1 to 7 to construct boundary wall around the said school within the time stipulated by this Court.

For petitioner : Mr.R.Alagumani

For respondents 1 to 8 : Mr.M.Govindan
Special Government Pleader

For respondents 9 & 11 : Mr.R.Vijayakumar

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

This Writ Petition has been filed in public interest for directing the authorities to remove the illegal encroachment committed by the respondents 9 and 11 in Survey No.147/1B measuring an extent of 2 acres and 82 cents.

2. The writ petitioner contends that the said land was allotted to Y.Othakadai Government Higher Secondary School at Ulaganeri, Narasingam Village, Madurai District, vide G.O.Ms.No.817, Revenue Department, dated 06.10.1998. He seeks a direction for putting up a boundary wall covering the said property. He placed reliance on an order dated 04.02.2000, made in W.P.No.19792 of 1999 filed by the Parent Teachers Association of the said school. In the said Writ Petition, this Court had directed the authorities to take possession of the said land and remove the encroachments. But, till date, the said order has not been complied with. He submitted a representation on 18.07.2016 in this regard. Since no action was taken, the present Writ Petition



3. Heard Mr.R.Alagumani, learned counsel appearing for the petitioner, Mr.M.Govindan, learned Special Government Pleader appearing for the respondents 1 to 8 and Mr.R.Vijayakumar, learned counsel appearing for the respondents 9 and 11.

4. The learned counsel appearing for the respondents 9 and 11 would contend that the respondents 9 and 11 had already filed O.S.No.259 of 1998, on the file of the District Munsif Court, Madurai and prayed for the relief of permanent injunction and by Judgment and Decree dated 25.01.2000, the said Suit was decreed insofar as the Government is concerned. A.S.No.101 of 2001 filed by the Government was dismissed.

5. According to the learned counsel for the said private respondents, the said property belongs to Arulmigu Kalamega Perumal Kovil and that the said temple had leased out the said property in their favour and they are continuing to be in possession and enjoyment of the same by paying rent to the temple. He would also contend that the order dated 04.02.2000 made in W.P.No.19792 of 1999, would not bind them, because, they were not made as parties to the said Writ Petition. The temple was also not shown as a party respondent.

6. This Court carefully went through the entire records. It is not in dispute that the Government of Tamil Nadu issued G.O.Ms.No.817, Revenue Department, dated 06.10.1998, allotting the land in Survey Nos.147/1B and 147/3 in Narasingam Village, measuring an extent of 2.19 hectare of land to Y.Othakadai Government Higher Secondary School at Ulaganeri, Narasingam Village, Madurai. The Principal Bench of this Court had passed the order dated 04.02.2000 in W.P.No.19792 of 1999, directing the authorities to remove the encroachment in the said survey number and hand over possession of the same to the School. Till date, Arulmigu Kalamega Perumal Temple had not challenged the said Government Order. Therefore, we direct the fourth respondent herein to issue notice to the said temple and also the respondents 9 to 11 in this regard. We further direct the fourth respondent to forthwith implement the Government Order issued in G.O.Ms.No.817, dated 06.10.1998, after issuing notice to Arulmigu Kalamega Perumal Temple and the respondents 9 to 11. So long as the said Government Order has not been stayed or set aside, it is the duty of the fourth respondent herein to implement the same. As we have already pointed out, this Court had already issued a mandate as early as on 04.02.2000, directing removal of the encroachment. Since the respondents 9 to 11 are presently in physical possession of the property in question and it is contended that the property belongs to the said temple, the fourth respondent has to follow due process of law before causing removal of encroachment in

the fourth respondent shall complete the entire exercise within a period of three months from the date of receipt of a copy of this order.



7. The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(RTI)

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/True Copy/

Sub Assistant Registrar

To:

1. The Principal Secretary,
Department of School Education,
State of Tamil Nadu, Secretariat,
Fort.St.George, Chennai.
2. The Principal Secretary, Revenue Department,
State of Tamil Nadu, Secretariat,
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3. The Director of School Education,
Office of the Director of School Education,
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7. The District Educational Officer,
Melur Educational District, Melur,
Madurai District.
8. The Head Master,
Government Girls Higher Secondary School,
Othakadai at Ulaganeri, Madurai District.

+1cc to Mr.R.Alagumani, Advocate SR.No.71586
+1cc to Mr.R.Vijayakumar, Advocate SR.No.71389
+1cc to The Spl.Government Pleader Sr.No.72023
NB

VB/SKN/RSK/SAR3/30.08.2017/4P/12C