



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM:

WEB COPY

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

W.P. (MD) Nos.7664 of 2017, 9048 & 11484 of 2013
and

W.M.P. (MD).No.5975 of 2017

N.Krishna Kumar : Petitioner in W.P. (MD).No.7664 of 2017
Thangaswamy : Petitioner in W.P. (MD).No.9048 of 2013

P.Palphanabhan
N.Thangappan : Petitioners in W.P. (MD).No.11484 of 2013
Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Executive Officer,
Ganapathipuram Town Panchayat,
Ganapathipuram & Post,
Kanyakumari District.
3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
4. The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.

5.P.Palaniappan
6.R.Mahalingam
7.N.Thangappan
8.S.Gnana Sekhar

: Respondents in W.P. (MD).No.7664/2017

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.



3. The Revenue Divisional Officer,
Collectorate Office,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

4. The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

5. The Executive Officer,
Ganapathipuram Town Panchayat,
Ganapathipuram,
Kanyakumari District.

6. P.Palaniappan

7. R.Mahalingam : Respondents in W.P.(MD).No.9048/2013

1. The District Collector,
Kanyakumari District,
Nagercoil.

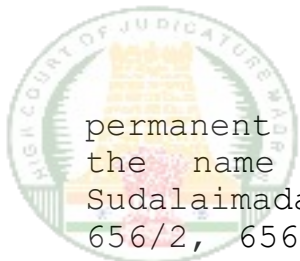
2. The Executive Officer,
Ganapathipuram Town Panchayat,
Ganapathipuram-629 502,
Kanyakumari District.

3. Thanswamy : Respondents in W.P.(MD).No.11484/2013

PRAYER in W.P.(MD).No.7664 of 2017: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents one and two to demolish the illegal structure in R.S.No.656/1, 656/2, 656/14 and 656/15 of Neendakarai "B" Village, Agasteeswaram Taluk, Kanyakumari District.

PRAYER in W.P.(MD).No.9048 of 2013: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents one to five to initiate action against the respondents six and seven and their men in accordance with of the provisions of the Tamil Nadu District Municipalities Act and further forbearing the respondents six and seven and their men or agents in putting up any unauthorised construction to construct the new temple or installing any idols in Re-Survey Nos.656/1, 656/2, 656/14 and 656/15 at Neendakarai "B" Village, Agasteeswaram Taluk, Kanyakumari District.

PRAYER in W.P.(MD).No.11484 of 2013: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate Writ or Order of Direction, directing the first respondent to grant permission to the petitioner to put up



permanent construction in the place of the temporary structure in the name of Allankottai Oor Hindu Nadar Samudhaya New Siva Sudalaimadaswamy Kovil Temple in the lands bearing Survey No.656/1, 656/2, 656/14 and 656/15 at Neendakarai "B" Village, Agasteeswaram Taluk, Kanyakumari District, by considering the representation dated 05.03.2012, made by the deceased A.P.Chelladurai and the representation dated 02.04.2013 made by the second petitioner herein, within a time frame as may be fixed by this Court.

In W.P. (MD) .No.7664 of 2017

For Petitioner	: Mr.C.T.Perumal
For R.1, R.3 & R.4	: Mr.T.S.MD.Mohideen Additional Government Pleader
For Respondent No.2	: Mr.R.Velmurugan
For R.5 to R.8	: Mr.S.Subbiah Senior Counsel For Mr.N.Subramanian

In W.P. (MD) .No.9048 of 2013

For Petitioner	: Mr.M.P.Senthil
For R.1 to R.4	: Mr.T.S.MD.Mohideen Additional Government Pleader
For R.6 & R.7	: Mr.S.Subbiah Senior Counsel For Mr.N.Subramanian
For Respondent No.5	: Mr.Aayiram K.Selvakumar

In W.P. (MD) .No.11484 of 2013

For Petitioner	: Mr.S.Subbiah Senior Counsel For Mr.N.Subramanian
For Respondent No.3	: Mr.M.P.Senthil
For R.1 & R.2	: Mr.T.S.MD.Mohideen Additional Government Pleader

COMMON ORDER

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

W.P.(MD).No.9048 of 2013 has been filed by one Thangasamy for forbearing the private respondents six and seven from putting up any unauthorised construction or construct a new temple or install any idol in R.S.Nos.656/1, 656/2, 656/14 and 656/15 in Neendakarai "B" Village, Agasteeswaram Taluk, Kanyakumari District.

2.W.P.(MD).No.11484 of 2013 has been filed by one Palphanabhan and Thangappan for directing the District Collector, Kanyakumari to grant permission to put up a permanent construction in the place of temporary structure in the very same survey numbers by considering the representation dated 05.03.2012.



3. Though Thangasamy, the writ petitioner in W.P.(MD).No.9048 of 2013 is figuring as the third respondent in W.P.(MD).No.7664 of 2017 has been filed by one Krishnakumar for demolition of the structure alleged to have been put up illegally in the very same survey numbers.

4. It appears that in the village of Alankottai, there was a temple Trust dedicated to Siva Sudalaimadasamy. On account of some internal disputes among the members of the trust, a rival group was formed. The said rival group wanted to construct an independent temple. Since as per Rule 6(4) of the Tamil Nadu Panchayat and Building Rules, prior permission of the District Collector is required for putting up any place of religious worship, the other group invoking the said provision filed the said two writ petitions.

5. While W.P.(MD).No.9048 of 2013 was filed by the President of the Trust, W.P.(MD).No.7664 of 2017 was filed by the Vice President. In the first writ petition, the prayer is for restraining the construction of the new temple. Since some sort of structure had been put up, the second writ petition has been filed with a prayer for demolishing the same.

6. It is relevant to note that fortunately both the groups belonging to the same community. This is not a Hindu-Christian dispute that crops up in the District of Kanyakumari. In the fitness of things, this Court deems it appropriate to relegate the parties to go before the District Collector, Kanyakumari District, who is the competent authority. It is for the District Collector to take a decision in the matter. The District Collector shall take into account all the relevant factors and take a decision in accordance with law. He shall hear both the contesting parties before finalising the issue. The District Collector is directed to pass an order in accordance with law in the matter within a period of two months from the date of receipt of a copy of this order.

7. All these three writ petitions are accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District, Nagercoil.



2. The Superintendent of Police,
Kanyakumari District, Nagercoil.

3. The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.

4. The Revenue Divisional Officer,
Collectorate Office,
Agasteeswaram Taluk,
Nagercoil, Kanyakumari District.

5. The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

- + 1 CC TO Mr.R.VELMURUGAN, ADVOCATE IN SR No. 73075
- + 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 72998
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 73217, 73216
- + 1 CC TO Mr.N.SUBRAMANIAN, ADVOCATE IN SR No. 73057

TSG

TE/JC/SAR-I : 16/11/2017 : 5P/10C

Order made in
W.P. (MD) Nos. 7664/2017, 9048 & 11484/2013 &
W.M.P. (MD) .No. 5975 of 2017
dated: 17.08.2017