



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2017

CORAM:

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

W.P. (MD) No.7559 of 2013

Rev.Fr.Anto Vinoth Kumar

.. Petitioner

Vs.

1. The District Collector,
Nagercoil,
Kanyakumari District.
2. The Thasildar,
Thovalai Taluk,
Thovalai, Kanyakumari District.
3. The President,
Azhagiayapandipuram,
Town Panchayat,
Thovalai Taluk, Kanyakumari District.
4. Kumar (Incharge),
Sri Ashta Kaleeswari Amman Kovil,
Bharathar Street,
Ettamadai,
Azhagiapandipuram Post,
Kanyakumari District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to remove the illegal construction accommodating Sri Ashta Kaleeswari Amman Kovil constructed in Survey Nos.513 and 537/2 of Azhagiapandipuram Village, within a stipulated time fixed by this Court.

For Petitioner : Mr.R.T.Arivukumar
For RR 1 & 2 : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.
For R - 3 : Mr.K.P.Krishnadoss
For R - 4 : M/s.L.Victoria Gowri

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

The petitioner filed this Writ Petition to direct the first respondent to remove the illegal construction stated to have been made by the fourth respondent in respect of the property in Survey Nos.513 and 537/2 at Azhagiapandipuram Village, Kanyakumari District.

2.The affidavit filed in support of the Writ Petition proceeds, as if the land in Survey Nos.513 and 537/2 absolutely belongs to the petitioner. The land is a private land belonging to the Church.

3.The fourth respondent has taken up a contention that the Temple in question was established even before Independence and the present writ petition is filed only to grab the property.

4.The question as to whether the fourth respondent is an encroacher in respect of the property owned by Holy Family Church is essentially an issue to be decided by the civil Court. There is no question of directing the District Collector to evict the fourth respondent. We do not find any reason to issue a writ of Mandamus as prayed for by the Writ Petitioner. It is open to the petitioner to approach the civil Court for appropriate relief.

5.The Writ Petition is dismissed with the above observation. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Nagercoil,
Kanyakumari District.
2. The Thasildar,
Thovalai Taluk,
Thovalai, Kanyakumari District.

- + 1 CC TO Mr.R.T.ARIVUKUMAR, ADVOCATE IN SR No. 67674
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 68362
- + 1 CC TO M/s.VICTORIA GOWRI, ADVOCATE IN SR No. 67677

PS/KM

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TE/GI/SAR-11 : 09/08/2017 : 2P/6C

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