

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.2279 of 2018

And

W.M.P.Nos.18731, 2779 and 2778 of 2018

1.Dhanalakshmi
2.Abarna
3.Arun @ Arunachalam ... Petitioners

Versus

- 1.The District Collector,
Villupuram,
Villupuram District.
- 2.The District Revenue Officer,
Collectorate Office,
Villupuram,
Villupuram District.
- 3.The Tahsildar,
Villupuram Taluk,
Villupuram,
Villupuram District.
- 4.The Commissioner,
Villupuram Municipality,
Villupuram,
Villupuram District.
- 5.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Villupuram,
Villupuram District.
- 6.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Department,
Collectorate Complex,
Villupuram,
Villupuram District.

सत्यमेव जयते
WEB COPY

7.Arulmigu Selva Muthumariamman Temple,
represented by its Trustee P.Mohan,
S/o.Dheivasigamani, Villupuram
(R-7 impleaded as per order of Court made
in WMP No.6621 of 2018 dated 21.3.2018) .. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in proceeding bearing No.Na.Ka.No.A1/25676/2011 dated 10.6.2017; proceeding bearing Na.Ka.No.2626/2017/A3 dated 20.6.2017 of the sixth respondent and proceeding bearing Na.Ka.No.9686/2017-1/A2 dated 14.12.2017 of the fifth respondent and quash the same and consequently direct the respondents to consider the shifting of Arulmigu Muthu Mariamman Temple, Villupuram from Ward-A, Block No.37, Town Survey No.3 in Villupuram Town to any other place without abutting National Highways Road and also without encroach upon the petitioners property.

For Petitioners : Mr.S.Udayakumar

For Respondents-1to4: Ms.A.Sri Jayanthi,
Special Government Pleader.

For Respondents-5&6 : Mr.M.Maha Raja,
Special Government Pleader (HR&CE).

For Respondent-7 : Mr.D.Ravichander

O R D E R

The order passed by the Assistant Commissioner, Hindu Religious and Charitable Endowments (HR&CE) Department, Villupuram dated 20.6.2017, the order of the Joint Commissioner, Hindu Religious and Charitable Endowments (HR&CE) Department, Villupuram dated 14.12.2017 and also the order of the District Collector, Villupuram/first respondent herein dated 10.6.2017, are under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioners, made a submission that the Government failed to act as a model and committed an act of encroachment into the National Highways Road, more-specifically, Chennai-Villupuram National Highways. The learned counsel for the writ petitioners conveyed before this Court that the temple proposed to be constructed in a place allotted by the Revenue Department, is different and the temple authorities are now attempting to encroach the road, which is illegal and contrary to the National Highways Act. It is urged before this Court that no construction

can be allowed in National Highways under the provisions of the Act. The same must be maintained only for the usage of the public at large and the vehicles plying on the National Highways. Therefore, the writ petitioners are constrained to move the present writ petition to prevent the Hindu Religious and Charitable Endowments Department to construct a temple on the National Highways.

3. The learned Special Government Pleader, appearing on behalf of respondents 1 to 6, opposed the contention of the learned counsel for the writ petitioners, by stating that the temple is under construction only in the land allotted by the District Collector and there is no such encroachment, as such, alleged by the writ petitioners in the present writ petition. The temple authorities never made any attempt to encroach the National Highways Road. The temple is being constructed within the property belongs to the Revenue Department and allotted by the District Collector, Villupuram to construct the temple as an alternate land. Even as per the learned Special Government Pleader, the land allotted to the Hindu Religious and Charitable Endowments Department, is classified as Government poramboke. Therefore, there is no encroachment as such. The learned Special Government Pleader placed the photographs of the unfinished constructed portion of the temple, showing that there is no encroachment and the temple is situated within the land allotted by the Revenue Officials.

4. This Court is of an opinion that the roads maintained by the National Highways can never be encroached by any person, including Hindu Religious and Charitable Endowments Department. The road must be maintained for free usage of the public at large and in the event of allowing encroachment, more-so, by the temple authorities, the same will affect the free vehicular traffic of the National Highways and there is a possibility of frequent accidents also. Under these circumstances, even under the National Highways Act, the authorities concerned are bound to maintain the National Highways for the free usage of the public at large and the same is to be maintained intact.

5. This apart, it is brought to the notice of this Court that the writ petitioners have already filed a civil suit in O.S.No.345 of 2017 before the Principal District Munsif Court at Villupuram to establish their civil rights in respect of the properties owned by them. If at all, the writ petitioners have to establish their civil rights, it is appropriate to adjudicate the issues in respect of the properties owned by them before the competent Civil Court. Thus, all such issues involving the civil rights of the respective properties in relation to the immovable properties are to be adjudicated by way of a civil suit and by conducting a full-fledged trial. Thus, this Court is not

inclined to go into the issues in relation to the civil rights of the parties.

6. However, in respect of the maintenance of the National Highways, it is the duty of the authorities competent to maintain it in all respects and no encroachments can be permitted. Now, it is made clear by the learned Special Government Pleader, appearing on behalf of the HR&CE Department, that there is no encroachment by the temple authorities and the temple is being constructed only within the land allotted by the District Collector and the said land is classified as Government poramboke and that therefore, there is no impediment to proceed with the construction of the temple, as the said temple is a matter faith and belief for the people residing in that locality.

7. This apart, the erstwhile temple, situated beneath the overbridge, was demolished and a new temple is under construction in the land allotted by the District Collector. Thus, there is no irregularity, as such, in respect of the construction of temple. However, it is made clear that the National Highways Authorities are bound to maintain the roads without any deviation and no encroachment can be allowed by the National Highways Authority.

8. In this view of the matter, the respondent/HR&CE Department, is directed to construct the temple within the land allotted by the District Collector. Such a construction shall be inspected by the National Highways Authorities and if any encroachment is made on the National Highways Road, then the National Highways Authorities are at liberty to remove such encroachments by taking appropriate action and by following the procedures contemplated under Law.

9. In this view of the matter, the HR&CE Department is at liberty to proceed with the construction of temple within the land allotted to them and complete the same in all respects. The Registry is directed to forward a copy of this order to The Deputy General Manager (Project Director), National Highways Authority of India, No.26, 1st Floor, V.G.P.Nagar West, Vazhudhareddy Post, Villupuram-605 401.

10. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Svn

To

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- 7.The Deputy General Manager (Project Director),
National Highways Authority of India,
No.26, 1st Floor, V.G.P.Nagar West,
Vazhudhareddy Post, Villupuram-605 401.

+1cc to Mr.D.RAVICHANDER, Advocate, S.R.No.45689
+1cc to Mr.S.UDAYAKUMAR, Advocate, S.R.No.45451
+1cc to the Government Pleader, S.R.No. 45768

WP 2279 of 2018

TR(18/07/2018)