

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.09.2018

Coram:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

W.P.No.24032 of 2018
and
W.M.P.No.27997 of 2018

M/s.Sathavarayan Thirukoil,
rep.by its Managing Trustee
M.Ramesh
No.2/109, Sathavarayan Thirukoil Street,
Pozhichalur, Chennai-74 ... Petitioner

vs.

The Junior Engineer,
PWD/Water Resources Department,
Adyar Division,
St.Thomas Mount,
Chennai-600 016 ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus forbearing the respondent from taking any eviction proceedings on the basis of the Impugned Notice dated 21.08.2018, issued by the Respondent herein till the disposal of the Petitioner's Representation dated 03.09.2018.

For Petitioner : Mr.P.Gunaraj

For Respondent :Mrs.Rose Kamalam, Govt.Advocate

WEB COPY
ORDER
(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondent.

2.No counter is filed on behalf of the Respondent.

3. According to the Petitioner, 'Sathavarayan Temple' is established as 'Sathavarayan Thirukoil', Chennai-74, in the year 1955 in Survey No.253, Pozhichalur Village, bearing Door No.2/209, Sathavarayan Thirukoil Street, Pozhichalur, Chennai-74, by the local residents of Pammal, who are villagers of Theni District.

4. The stand of the Petitioner is that the Respondent issued a Notice to the 'Sathavarayan Temple' in Form-III, under Rule 6(1) of the Tamil Nadu Land Encroachment Act, 1905, on 21.08.2018, stating that the Petitioner Temple has partly encroached the 'Odai' of 'Adyar River Irrigation' in Survey No.253 in Pozhichalur, admeasuring 1.52.5 acres, etc., while the same is not an encroachment partly at 'Odai' of 'Adyar River' in Survey No.253, Pozhichalur Village, in the course of process of widening and deepening the Adyar River, starting from Chemparembakkam Vadikal to the Indian Ocean, to safe-guard them from food during rainy flood season.

5. In this connection, it is the plea of the Petitioner that the Temple was not constructed in the 'Odai' of 'Adyar River Irrigation', as alleged in the Impugned Notice dated 21.08.2018. As a matter of fact, the Temple is located far away from the 'Adyar River Bank' and in fact the river width of the 'Adyar River', located West to the Temple i.e., East to West, is more than 100 metres from the 'Sathavarayan Temple' in question.

6. In short, the prime plea taken on behalf of the Petitioner is that the Temple was not constructed in the 'Odai' of 'Adyar River', comprised in Survey No.253, Pozhichalur Village.

7. It comes to be known that for the Impugned Notice, dated 21.08.2018, the Petitioner/Temple Seva Trust, had issued a Reply/Representation, dated 03.09.2018, inter alia stating that the Temple was constructed some 60 years back with the hard earned money of poor and downtrodden family members, hailing from the small village of Theni District. In fact, the Temple is located in Survey No.248 (part) and 253. Moreover, only 21 days time was given to the Petitioner/Temple to remove the alleged Encroachment, as per Notice dated 21.08.2018.

8. As on date, the Respondent has not passed Orders on the Reply/Representation, dated 03.09.2018, furnished by the Petitioner/Temple. In view of the fact that the Petitioner/Temple, in a cockscomb fashion, claims that the Temple is located in Survey No.248 (Part) and 253, this Court is of the considered view that the Respondent is to look into the Representation/Reply of the Petitioner Temple, dated 03.09.2018, within a period of one week from the date of receipt of copy of

this Order. Thereafter, the Respondent shall pass necessary Orders, based on the Representation/Reply of the Petitioner dated 03.09.2018 (for the Impugned Notice dated 21.08.2018), by affording necessary opportunity to the Petitioner/Seva Trust and others concerned. It is open to the Petitioner/Seva Trust to raise all 'factual' and 'legal' pleas and to produce necessary documents, to establish their claim, before the Respondent, who shall advert to the same, at the time of passing the Final Orders, in the subject matter in issue. In any event, the Respondent is directed to pass necessary Orders in a free, fair, just, unbiased and in a dispassionate manner, within four weeks thereafter. Till the passing of final Orders by the Respondent, the Petitioner/Seva Trust shall not be displaced/disturbed from the subject property in issue.

With the above observations/directions, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msk

To

The Junior Engineer,
PWD/Water Resources Department,
Adyar Division,
St.Thomas Mount,
Chennai-600 016

+lcc to Mr.P.Gunuraj, Advocate, S.R.No. 63343
+lcc to the Government Pleader, S.R.No. 63822

W.P.No.24032 of 2018

GN(20/09/2018)