



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

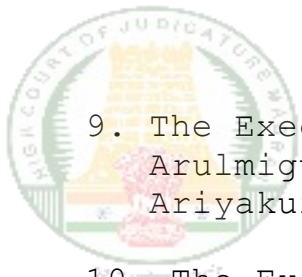
WP. (MD) No.3866 of 2018

S.Muthukumar

... Petitioner

-vs-

1. The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam, Chennai - 600 035.
2. The District Collector,
Sivaganga District,
Sivaganga.
3. The Superintendent of Police,
Sivaganga District,
Sivaganga.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sivaganga.
5. The Joint Director,
Land and Survey Department,
Sivaganga District,
Sivaganga.
6. The District Registrar,
Registration Department,
Sivaganga District.
7. The Joint Director of Village Panchayat
Village Panchayat,
Sivagangai District.
8. The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Paramakudi, Ramanathapuram District.



9. The Executive Officer,
Arulmigu Vettudayar Kaliyamman Temple,
Ariyakurichi, Sivagangai District.

10. The Executive Officer/Asst. Commissioner,
Arulmigu Adaikkalam Kattha Ayyanar and
Pathirakaliamman Temple,
Madappuram, Thiruppuvanam via,
Sivagangai District.

11. The Special Tahsildar (Temple Lands)
Arulmigu Meenakshi Sundareshwar Temple,
Madurai - 625 001.

12. The Assistant Executive Engineer,
Tamilnadu Electricity Generation and
Distribution Corporation (TANGEDCO),
Sivaganga.

13. The District Revenue Officer,
Sivagangai District, Sivagangai. ... Respondents
(R13 is suo motu impleaded as per order dated
26.02.2018)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to remove the encroachments made in Kanchirankal Revenue Village, Sivagangai Taluk in S.Nos.321, 322/1, 322/3, 323/1, 3, 325/2, 5, 8, 9, 10 and 11 326/2, 3, 4, 5, 7, 327/1, 4, 5, 328/9, 10, 330, 331, 332, 333, 334, 335/1, 3, 337/1, 3, 340, 341 and 342 punja lands to the total extent of 142.08 acres and 250 acres of land at Mahasivanendhal village that belongs to Arulmiku Gowri Vinayagar Temple situated at Sivagangai city weekly market road opposite to theppakulam within a time.

For Petitioner : Mr.A.Kannan
For Respondents : Mr.V.R.Shanmuganathan, Spl.G.P.
For RR1, 2 and 9
Mr.D.Muruganandam, AGP for RR3 to 8
and 11
Mr.C.Guhaseelarupam for R10

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

<https://hcservices.hcscs.gov.in/hcservices/>
Mr.A.Kannan, learned counsel for the petitioner and
Mr.Mr.V.R.Shanmuganathan, learned Special Government Pleader



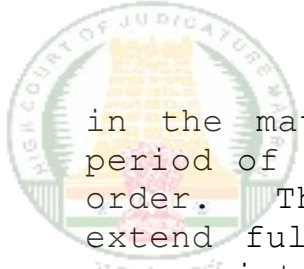
appearing for the respondents 1, 2 and 9, Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents for RR3 to 8 and 11 and Mr.C.Guhaseelarupan, learned counsel appearing for R10.

2.The petitioner is a practising advocate and states that he is a social activist and has filed several writ petitions before this Court regarding the removal of encroachment in public properties and against illegal constructions in and around the Meenakshi Amman Temple, Madurai. In this writ petition, the petitioner has sought for a direction to the respondents to remove encroachment made in the Kachirankal Revenue Village, Sivagangai Taluk in S.Nos.321, 322/1, 322/3, 323/1, 3, 325/2, 5, 8, 9, 10 and 11 326/2, 3, 4, 5, 7, 327/1, 4, 5, 328/9, 10, 330, 331, 332, 333, 334, 335/1, 3, 337/1, 3, 340, 341 and 342 measuring a total extent of 142.08 acres and 250 acres of land at Mahasivanendhal village that belongs to Arulmiku Gowri Vinayagar Temple situated at Sivagangai city weekly market road opposite to theppakulam within a time.

3.The petitioner before approaching this Court has given a representation on 23.01.2018 and the representations had been sent by speed post. However, we opine that the petitioner should have granted some more time to the authorities to act on the representation and should not have rushed to the Court within less than a month by filing a writ of mandamus especially when it appears to be undisputed that encroachments have been there for a long period of time.

4.The learned standing counsel appearing for the 10th respondent would submit that the lands in Kanchirankal revenue village is concerned, about 95 acres of the land, certain third parties are in possession and pattas have been granted by the revenue officials and the 9th respondent has initiated action and preferred appeals before the District Revenue Officer, Sivagangai District and those appeals are pending. Regarding the remaining extent of about 46 acres, the learned counsel would submit that appropriate action has been taken by the 10th respondent and the Executive Officer has also been appointed as Special Officer to take necessary action and on appropriate representation being filed, the Joint Commissioner, HR & CE Department, Sivagangai, the fourth respondent will take action for eviction under the provisions of the Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959. With regard to the lands in Mahasivaanendhal village is concerned, the learned counsel submits that the authorities are in the process of verification of the extent of land to ascertain as to the encroachment etc.

5.Considering the fact that so far as the extent of about 46 acres in Kanchirankal village, since already action has been initiated, we direct the respondents 4,9 and 11 to proceed further



in the matter as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. The revenue and the police authorities are directed to extend full co-operation to the respondents 4,9 and 11 to take appropriate action against the encroachers. In this regard, the second respondent District Collector, Sivaganga and the third respondent Superintendent of Police, Sivaganga are directed to issue necessary instructions to the subordinate officers to co-operate with the respondents 4, 9 and 11. It needless to state that before proceeding to evict the encroachers, the procedure contemplated under the Act has to be strictly adhered to and no forcible action should be initiated. So far as the remaining extent of 95 acres is concerned since appeals are pending before the District Revenue Officer, Sivaganga, we direct the said authority to take those appeals on file and issue notice to the persons in possession of the property and take a decision on the appeals on merits and in accordance with law, within a period of 4 months from the date of receipt of a copy of this order. To ensure proper compliance of this direction, we suo motu implead the District Revenue Officer, Sivagangai as 13th respondent in the writ petition.

6. With regard to the remaining extent of 250 acres of Mahasivanendhal village, which is said to belong to Arumligu Gowri Vinayagar Temple, since the authorities are in the process of initiating necessary action, we direct the concerned authorities to proceed further in accordance with law and the fourth respondent is directed to ensure that no part of the temple land is encroached by any third party. So far as these lands are concerned, the concerned authorities under the control of fourth respondent shall initiate proper action in accordance with law, within a period of 6 months from the date of receipt of a copy of this order. The respondents 5, 7 and 10 also directed to extend their full co-operation to the officials of the HR & CE Department to carryout the aforesaid directions.

7. With the above said directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,

<https://hcservices.mca.gov.in/Services>
 Religious and Charitable Endowments,
 Nungambakkam, Chennai - 600 035.



2. The District Collector,
Sivaganga District,
Sivaganga.
3. The Superintendent of Police,
Sivaganga District,
Sivaganga.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sivaganga.
5. The Joint Director,
Land and Survey Department,
Sivaganga District,
Sivaganga.
6. The District Registrar,
Registration Department,
Sivaganga District.
7. The Joint Director of Village Panchayats,
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Tamilnadu Electricity Generation and
Distribution Corporation (TANGEDCO),
Sivaganga.
13. The District Revenue Officer,
Sivaganga District, Sivagangai.



+ 2 ccs TO Dr.C.Gunaseelarupan , Advocate in SR No. 51092
+ 1 cc TO The Special Government Pleader in SR No. 51642

Arul

AE/CVC/SAR3/08.03.2018/6P/17C

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