



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P.[MD].No.17570 of 2018

and

W.M.P.(MD).Nos.15430 and 17814 of 2018

K.Chinnamuniappan : Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District, Virudhunagar.
- 2.The Block Development Officer,
Office of the Block Development,
Sivakasi, Virudhunagar District.
- 3.The Tahsildar,
Sivakasi Taluk, Virudhunagar District.
- 4.The Special Officer,
Naranapuram Panchayat, Naranapuram,
Sivakasi Taluk, Virudhunagar District.

5.Nattanmai Samuthrakani : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 to stop the construction activities of Communal Hall on 22 cents of land with Karuppasamy Temple in Survey No.311/4 at N.Lakshmiyapuram Village, Sivakasi Taluk, Virudhunagar District and remove the already laid foundation pillars in that above place and further restraining themselves from going ahead with any construction activities in the above place on the basis of the representation dated 12.07.2018.

For Petitioner : Mr.T.Indrachithu

For Respondents 1to4 : Mr.M.Jayakumar
Additional Government Pleader

For Respondent No.5 : Mr.N.Dilipkumar

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

This Writ Petition has been filed seeking a Writ of Mandamus directing the respondents 1 to 4 to stop the construction activities of Communal Hall on 22 cents of land with Karuppasamy Temple in Survey No.311/4 at N.Lakshmiyapuram Village, Sivakasi Taluk, Virudhunagar District and remove the already laid foundation pillars in the above place and further restraining them from going ahead with any construction activities in the above place on the basis of the representation dated 12.07.2018.

2. The case of the petitioner is that he is a resident of N.Lakshmiyapuram Village, Sivakasi Taluk, Virudhunagar District. The land measuring to an extent of 22 cents, along with superstructure of Temple, by name, Karuppasamy Temple, comprised in Survey No.311/4, belongs to the community members of the petitioner. However, the community members of the fifth respondent, claiming rights over the said temple, filed a Civil Suit in O.S.No.225 of 2008, on the file of the District Munsif Court, Sivakasi, praying for a declaration and permanent injunction with respect to the above 22 cents of land comprised in Survey No.311/4 at N.Lakshmiyapuram Village. The said suit was dismissed on 15.03.2012, which was challenged by filing A.S.No.31 of 2012, on the file of the Sub Court, Sivakasi. The said Appeal Suit was also dismissed by the Sub Court, on 28.09.2012. Questioning the validity of the said Judgment, S.A.(MD).No.274 of 2013 came to be filed before this Court. By Judgment dated 04.07.2013, while dismissing the above Second Appeal, this Court has made it clear that the land in Survey No.311/4 has been classified as road and also classified as Karuppasamy Temple. When the matter stood thus, the second respondent had commenced the project of constructing Community Hall on 22 cents of land in Survey No.311/4 at the instance of the fifth respondent and his community members, despite dismissal of the Second Appeal. In fact, the members of the petitioner used to visit N.Lakshmiyapuram Village every year for conducting the annual temple festival. However, the second respondent, at the instance of the fifth respondent and his community members, has deliberately undertaken the construction work of community hall, even though Grama Natham lands are available nearby 22 cents of land situated at Karuppasamy Temple in Survey No.311/4 at Lakshmiyapuram Village. In this regard, the petitioner has submitted a representation dated 12.07.2018 to the respondents 1, 2 and 4 requesting them to stop the construction activities of community hall and remove the foundation pillars already put up by the fifth respondent and his community members. Since no action has been taken, the petitioner is before this Court with this Writ Petition for the relief stated supra.

3. Today, when the Writ Petition was taken up for consideration, a detailed submission was made by the learned counsel



on either side. The learned counsel appearing for the fifth respondent, by adverting to the Vacate Stay Petition filed by the fifth respondent, would submit that a total extent of 3.56 acres of land originally located in Survey No.311/4, N.Lakshmiyapuram Village was classified as Grama Natham lands. Many of the villagers have put up residences in the said survey number. Apart from the above, the fourth respondent had constructed a public auditorium, overhead water tank, ration shop and public drainage. The village 'A' Register and also the Settlement Register Extract in respect of Survey No.311/4 show that it is classified as Government Poramboke land and grama natham. Under the Natham Land Survey Settlement Scheme, the above Survey No.311/4 has been sub-divided and assigned with multiple new survey numbers. At present, Survey No.444/1 stands classified as "Kaliyammann Street and Over Head Tank". Similarly, survey No.444/2 stands classified as "Road". Likewise, survey No.444/3 stands classified as "Karuppsamy Temple and vacant site". The survey map appended thereto clearly indicates that the said Karuppsamy Temple is having measurement of 89.55 ft². Thus, according to the learned counsel, the contention of the learned counsel for the petitioner that Karuppsamy Temple is having an extent of 22 cents of land has no legs to stand. The learned counsel would further submit that the local authority, under the MLA Constituency Development Scheme, had proposed multiple works in the Constituency of Sivakasi by the present MLA as well as the Sitting Minister. Totally 21 works have been approved under the orders of the District Collector and by the proceedings of the District Collector dated 25.09.2017 and 29.08.2017 respectively. One of the approved schemes is the construction of community hall in N.Lakshmiyapuram Village at a cost of Rs.15 lakhs. In pursuance of the above, the second respondent had invited tenders and issued work order dated 25.05.2018 for the purpose of construction of community hall on or before 31.08.2018. Accordingly, the work has commenced and the building has reached the stage of laying the roof concrete. Under the above stated circumstances, the petitioner has come up with this Writ Petition for the relief stated earlier. Thus, the learned counsel for the fifth respondent prays for the dismissal of the Writ Petition.

4. The learned Additional Government Pleader appearing for the official respondents, on instructions, would submit that the land, in which the community hall is being constructed, is classified as Government Poramboke land.

5. We have considered the above submissions made by the learned counsel on either side and perused the records carefully.

6. In our considered view, the present Writ Petition has been filed on personal interest, in order to stall the construction of community hall. As rightly pointed out by the learned Additional Government Pleader, the land, in which the community hall is being constructed, is classified as "Government Poramboke land". When that being so, we do not



find any merit in this Writ Petition and the petitioner has no right to stall the construction of the community hall. The Writ Petition is, therefore, dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(crl.side)

/True Copy/

Sub Assistant Registrar(cs-IV)

To

- 1.The District Collector,
Virudhunagar District, Virudhunagar.
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Office of the Block Development,
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Sivakasi Taluk, Virudhunagar District.
- 4.The Special Officer,
Naranapuram Panchayat, Naranapuram,
Sivakasi Taluk, Virudhunagar District.

+1cc to Special Government Pleader Advocate in SR.No.95399
+1cc to N.Dilipkumar Advocate in SR.No.95477

ORDER MADE IN
W.P.[MD].No.17570 of 2018
14.11.2018

NB

PSPM SAR4 06.12.2018 4P 7C