



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.03.2018

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

W.P (MD) No.23598 of 2017

A.Radhakrishnan

... Petitioner

Vs.

- 1.The Secretary to the Government,
Revenue Department,
Secretariat, Chennai.
- 2.The Secretary to the Government,
Hindu Religious and Charitable Department,
Secretariat, Chennai.
- 3.The Secretary to the Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai.
- 4.The Secretary to the Government,
Highways Department,
Secretariat, Chennai.
- 5.The Secretary to the Government,
Home Department,
Secretariat, Chennai.
- 6.The District Collector,
Dindigul, Dindigul District.
- 7.The Taluk Executing Magistrate cum Tahsildar,
Palani, Dindigul District.
- 8.The Superintendent of Police,
Dindigul, Dindigul District.
- 9.The Joint Commissioner/Executive Officer/Fit Person,
Arulmighu Dhandayudhapani Temple,
Palani, Dindigul District.
- 10.The Special Officer cum Commissioner,
Palani Municipality,
Dindigul District.
- 11.The Divisional Engineer,
Construction and Maintenance,



Highways Department,
Palani, Dindigul District.

12.The Assistant Director,
Survey Department,
Dindigul District.

13.The Secretary to the Government,
Public Works Department,
Secretariat, Chennai.

14.The Superintending Engineer,
Water Resource Organisation,
Public Works Department, Palani.

15.The Executive Engineer,
Water Resource Organisation,
Public Works Department, Palani.

16.Sittanathan and Sons,
Palani Adivaram, Palani.

... Respondents

(RR 13 to 16 are suo-motu impleaded
vide order, dated 08.01.2018)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to remove the encroachment made in the land situated around Arulmighu Dhandayudhapani Swami Temple, Palani as per the proceedings of the sixth respondent in Na.Ka.No.4727/2013/A1, dated 17.06.2013 and further direct the ninth respondent to strictly comply with the conditions imposed in G.O.Ms.No.1258, dated 13.03.1948, Local Administration Department and G.O.Ms.No.3324, dated 31.08.1974 by considering his representation, dated 18.12.2017.

For Petitioner	: Mr.A.Radhakrishnan Party-in-Person
For RR 1 to 8, 11, 12, 13 to 15	: Mr.VR.Shanmuganathan, Special Government Pleader.
For R - 9	: Mr.K.Govindarajan
For R -10	: Mr.G.Arjunan
For R - 16	: Mr.T.Antony Arul Raj

ORDER

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

heard Mr.A.Radhakrishnan, party appearing in person and the
learned counsels appearing for the respondents.



2.The petitioner by way of this writ petition as a 'Public Interest Litigation', which has been assigned to this Bench, has sought for removal of encroachment made in the land situated around Arulmighu Dhandayuthapani Swami Thirukovil, Palani, as per the proceedings of the District Collector, dated 17.06.2013 and for a direction to the Joint Commissioner/Executive Officer of the Temple to strictly comply with the conditions in G.O.Ms.No.1258, Local Administration Department, dated 13.03.1948, and G.O.Ms.No.3324, dated 31.08.1974, by considering the petitioner's representation.

3.There are two aspects which are raised by the petitioner in this writ petition.

4.The first aspect is regarding the encroachers in 'Giri veedhi', which entire stretch vest with the ninth respondent. Sofar as the encroachers are concerned, the Superintendent of the ninth respondent, who is present in person before this Court, has submitted that all the encroachments in 'Giri veedhi' have been cleared and C.C.Tv cameras have been installed around 'Giri veedhi' to monitor and prevent the encroachers from being made in 'Giri veedhi'.

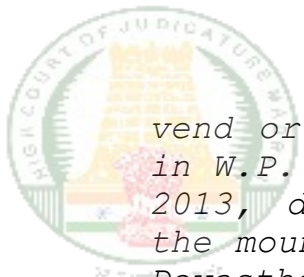
5.Apart from that, the Division Bench of this Court in W.P (MD)Nos.1341 of 2017 and 191 of 2016, dated 16.08.2017, at the instance of the Temple, has passed a prohibited order restraining all the respondents therein from issuing licence/identity cards for street vending in respect of 'Giri veethi' at Palani. The order, dated 16.08.2017 reads as follows:-

"Both these writ petitions pertain to the mountain paths of Giriveethi at Palani Hills.

2.W.P.(MD).No.196 of 2016 has been filed in Public Interest, seeking removal of the encroachments and for prohibition of commercial activities in the Giriveethi. The land around the temple on the foot hills are known as mountain path and a girivalam that is circumambulate around the hill is an important spiritual activity.

3. It is the case of the writ petitioners that the said mountain path was handed over in favour of the Devasthanam on condition that no commercial activity would be permitted. It is not open to the Devasthanam or the Palani Municipality to grant permission in favour of any person for conducting commercial activities. The writ petitioners grievance is that the Devasthanam is granting licences for carrying on such commercial activities in the mountain paths.

4.The learned Senior Counsel appearing for the second respondent firmly denied the said allegations. He submitted that W.P.(MD)No.1341 of 2017, was filed by the Devasthanam for forbearing the District Administration as well as the Local Municipality from issuing any license / Identity Cards for street vendors so as to enable them to



vend or carry on business in Giriveethi. When this Court in W.P.(MD).Nos.17889, 18047 to 18049 and 19392 to 19394 of 2013, dated 10.02.2014 prohibited commercial activity in the mountain path, it is not open to any authority be it a Devasthanam or the Government or the District Administration or the local body to grant permission for carrying any commercial activity in the Giriveethi.

5. The learned Counsel appearing for the Devasthanam strenuously submitted that whatever commercial activity is licensed by Devasthanam is only in respect of its patta lands and not in the Giri Veethi. This submission is placed on record. This Court specifically restrain the respondents in W.P.(MD)No.1341 of 2017 from issuing license / Identity Cards for street vendors in respect of the Giriveethi at Palani. Since object of both the writ petitioner appears to be one and the same, this Court has no hesitation in allowing both the writ petitions. No costs. Consequently, connected miscellaneous petition is closed."

6.The above said order has been referred by us while rejecting two impleading petitions filed by the parties in W.M.P(MD) Nos.1589 and 2957 of 2018. Therefore, the authorities of the Temple shall ensure that 'Giri veedhi' is free from any encroachment. Whenever there is a requisition made to the District Collector, Dindigul or to the Superintendent of Police or to the Executive Engineer or to any other Governmental authority for any assistance by the Joint Commissioner/Executive Officer-ninth respondent, the same shall be extended without any reservation for ensuring that 'Giri veedhi' is free from encroachment.

7.The second aspect is that the encroachers, who are in and around the Temple in various locations. In this regard, the petitioner refers a minutes of a joint meeting conducted on 07.02.2018 at about 05.30 pm. The minutes show that action is being initiated by the Municipality, however, we express that continuous action is required to be taken by the Municipality in association with the revenue department wherever required.

8.Therefore, we direct the respondents 6 to 8 as well as the respondents 11 and 12 to take appropriate action and wherever it is found that there is an encroachment in Government land, Panchayat land, Corporation Land etc., proceed to take expeditious action in that regard.

9.With the above direction, this Writ Petition stands disposed of. No costs.

Sd/

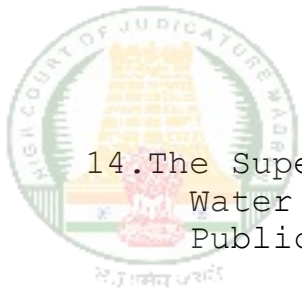
Assistant Registrar(CO)

/True copy/



To

1. The Secretary to the Government,
Revenue Department,
Secretariat, Chennai.
2. The Secretary to the Government,
Hindu Religious and Charitable Department,
Secretariat, Chennai.
3. The Secretary to the Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai.
4. The Secretary to the Government,
Highways Department,
Secretariat, Chennai.
5. The Secretary to the Government,
Home Department,
Secretariat, Chennai.
6. The District Collector,
Dindigul, Dindigul District.
7. The Taluk Executing Magistrate cum Tahsildar,
Palani, Dindigul District.
8. The Superintendent of Police,
Dindigul, Dindigul District.
9. The Joint Commissioner/Executive Officer/Fit Person,
Arulmighu Dhandayudhapani Temple,
Palani, Dindigul District.
10. The Special Officer cum Commissioner,
Palani Municipality,
Dindigul District.
11. The Divisional Engineer,
Construction and Maintenance,
Highways Department,
Palani, Dindigul District.
12. The Assistant Director,
Survey Department,
Dindigul District.
13. The Secretary to the Government,
Public Works Department,
Secretariat, Chennai.



14.The Superintending Engineer,
Water Resource Organisation,
Public Works Department, Palani.

15.The Executive Engineer,
Water Resource Organisation,
Public Works Department, Palani.

+1cc to Mr.K.Govindarajan, Advocate, SR.No.58066
+2cc to Mr.A.Radhakrishnan, Advocate, SR.No.57874
+1cc to Mr.G.Arjunan, Advocate, SR.No. 57768
+1cc to Mr.T.Antony Arul Raj, Advocate, SR.No.58032

W.P (MD) No.23598 of 2017
26.03.2018

ps
KK/SV MMS/09.04.2018/SAR-3/6P-21C