



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).No.9661 of 2016

D.Kaleeswaran

... Petitioner

Vs.

1. The District Collector,  
Ramanathapuram District,  
Ramanathapuram.
2. The Commissioner,  
Ramanathapuram Municipality,  
Ramanathapuram.
3. The Commissioner,  
H.R. & C.E. Department,  
Nungambakkam,  
Chennai.
4. The Joint Commissioner,  
H.R. & C.E. Department,  
Sivagangai.
5. The Trustees,  
Arulmigu Throupathi Amman Temple,  
Ramanathapuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to effect de-silting deepening the tank as Throupathi Amman Oorani situated in Ward No.12, T.S.No.96 of Ramanathapuram Town within the time limit that may be prescribed by this Court.

|                 |                                                       |
|-----------------|-------------------------------------------------------|
| For Petitioner  | : Mr.Venkitachalapathy                                |
| For R1, R3 & R4 | : Mr.V.R.Shanmuganathan<br>Special Government Pleader |
| For R2          | : Mr.A.Kannan                                         |
| For R5          | : Mr.T.R.Jeyapalam                                    |

O R D E R

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

This writ petition has been filed by one Thiru D.Kaleeswaran, who is stated to be a resident of Throupathi Amman Kovil Street, Velippattinam Post, Ramanathapuram, and he has approached this Court



seeking for a direction upon the respondents to de-silt and deepen the tank termed as Throwpathi Amman Oorani situated at T.S.No.96, Ramanathapuram Town, within a time limit to be prescribed by this Court.

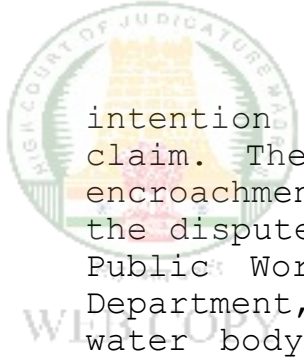
2. The respondents in the writ petition are the District Collector, the Hindu Religious and Charitable Endowment Department and the Trustees of the Temple. It is stated that the Temple is yet to come under the control of the H.R. & C.E. Department and proceedings are being taken to bring it under the control of the H.R. & C.E. Department.

3. In the mean time, the petitioner and other public of the area have requested for de-silting and deepening of the Temple tank and it appears that this is the only tank in Ramanathapuram Town, which is yet to be de-silted. The petitioner apprehends that the fifth respondent viz., Trustees would object to the same as they claim that it is the Temple Oorani and therefore, none can carry out the de-silting work.

4. Mr.T.R.Jeyapalam, learned counsel appearing for the fifth respondent referred to the counter affidavit filed by Gurusamy, S/o. Nagalingam, who has been nominated one of the trustees, wherein it has been stated that the Trustees of the Temple undertake that they will properly maintain the tank and if the Government undertakes the de-silting and deepening work of the Oorani, the Temple Administration has no objection for the same and the Temple Administration will also involve itself and co-operate with the Government with regard to such work. But, the Temple Administration and its Trustees will strongly oppose and object to any move by the Tamil Nadu Hindu Religious and Charitable Endowments Department to bring the Temple under its control. However, that issue is not before this Court in this writ petition, as the Court is only concerned as to what is to be done to the said Oorani.

5. Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1, 3 and 4 would submit that the de-silting work has commenced and it has been done by the H.R. & C.E. Department and the process to bring the Temple under the control of the H.R. & C.E. Department is also being proceeded.

6. The learned Standing counsel appearing for the second respondent Municipality would submit that the Trustees are objecting to the action initiated by the Municipality on the strength that the revenue records of the Oorani stands in their name. To verify the correctness of the said submission, the learned Additional Government Pleader was directed to produce the files, from which we find that the copy of the 'A' Register. From the copy of the 'A' Register, it is seen that the land in which the temple is situated is described as Throwpathi Amman Kovil and the Oorani is described as Throwpathi Amman Kovil Orrani. In fact, the learned counsel for the fifth respondent on instructions submitted that it is not the



intention of the Trustees and their legal-heirs to make such a claim. The Tahsildar has already initiated steps to remove the encroachment in the Oorani. At this juncture, we need not go into the dispute as to whether the Oorani belongs to the Temple or to the Public Works Department or under the control of H.R. & C.E. Department, as the larger public interest would be served, if the water body is preserved and that should be the intention of all including the Revenue Authorities, the Officials of the H.R. & C.E. Department, the petitioner and the other residents of the town and the Trustees of the fifth respondent Temple. Therefore, we direct the H.R. & C.E. Department to proceed with the de-silting and deepending of the Throwpathi Amman Temple by adopting scientific methods and the operation shall not be interfered with by any of the parties including the Trustees of the fifth respondent Temple. If there are any encroachments, the H.R. & C.E. Department shall inform the respondents 1 and 2, who shall initiate appropriate action for clearing the encroachment.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,  
Ramanathapuram District,  
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