

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P.No.892 of 2018

S.A.M.Yusufdheen

... Petitioner

-vs-

1.The District Collector,
District Collectorate,
Erode, Erode District.

2.The Tahsildar,
Erode Taluk,
Erode District.

3.P.K.Srinivasan

4.A.M.Mani

5.A.Shanmuga Sundaram

6.R.Moorthy

7.P.Prakash

8.S.Balasubramaniam

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents 1 and 2 to remove the Vinayagar Statue put up on the well site No.40, bearing S.No.15, now classified as Natham S.No.1397, situated at Erode Village, Erode Taluk within the jurisdiction of Erode Municipal Corporation Limit.

For Petitioner : Mr.S.Kumaradevan

For Respondents : Mr.V.Jayaprakash Narayanan
Government Pleader (i/c)
for respondent Nos.1 and 2

No Appearance
for respondent Nos.3 and 4

Not Ready in Notice
for respondent Nos.5 to 8

ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing respondent Nos.1 and 2 to remove Vinayagar Statue put up on the well site No.40, bearing Survey No.15, now classified as Natham Survey No.1397 situated at Erode Village, Erode Taluk within the jurisdiction of Erode Municipal Corporation Limit.

2. The second respondent/Tahsildar, Erode Taluk has filed the counter-affidavit, wherein she has stated that the land in which Vinayagar Statue has been erected i.e., in Plot No.40 of Natham Survey No.1397/40 (R.S.No.14/13), is classified as "Ryotwari Punjai" patta land and belongs to the private parties. Further, the second respondent has stated that since Vinayagar Statue is situated in the patta land belonging to some other parties, respondent Nos.1 and 2 are not in a position to take action under the Tamil Nadu Land Encroachment Act, 1905.

3. The learned counsel for the petitioner while making submissions admitted that the private respondents have erected Vinayagar Statue in the land belonging to the petitioner. If the private respondents had encroached into the petitioner's land and erected Vinayagar Statue, the remedy available to the petitioner is only before the competent Civil Court and not by way of filing a writ petition under Article 226 of the Constitution of India.

4. In such view of the matter, we are not inclined to entertain the writ petition. Accordingly, the same is dismissed. No costs. Consequently, W.M.P.No.1076 of 2018 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

bbr

To

1.The District Collector,
District Collectorate,
Erode, Erode District.

2.The Tahsildar,
Erode Taluk,
Erode District.

+1cc to M/S.S.KumaraDevan, Advocate Sr.18303
+1cc to the Government Pleader Sr.18458

W.P.No.892 of 2018

rsv[col]
srg 21/03/2019

सत्यमेव जयते

WEB COPY