

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32690 of 2018

Subramani

.. Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irvin Road,
Egmore,
Chennai.

2. The Commissioner,
Avadi Municipality,
Avadi, Chennai.

3. Victory Mohan

.. Respondents

(R2 cause title amended vide order dated 19.12.2018 made in W.M.P.No.39367 of 2018)

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the respondents 1 & 2 herein to remove the encroachment created by putting up a Pillaiyar temple in the middle of the 1st Street, Santhipuram, Thirumullaivoyal, Chennai opposite to the house of the 3rd respondent pursuant to the representation dated 26.11.2018 given to the respondents 1 & 2.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.S.Veeraraghavan, Senior Counsel
for Mr.V.Panjali Rajan (R3)

Mr.Karthik Rajan (R1)

Mr.P.Srinivas (R2)

O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the respondents 1 & 2 to remove the encroachment created by constructing a Temple in the middle of the 1st Street, Santhipuram, Thirumullaivoyal, Chennai opposite to the house of the 3rd respondent pursuant to the representation dated 26.11.2018 given to the respondents 1 & 2.

2.It is the case of the petitioner that the 3rd respondent has constructed a Temple in front of his house blocking the road.

3.The 2nd respondent filed a counter wherein he has specifically stated that the land in Shanthipuram, First Street, Thirumullaivoyal, Avadi Town was surveyed and found that the Vinayagar Temple is situated in T.S.No.24, Ward D, Block - 69 and the said land is entered in the name of one Rajagopal. Further, the 2nd respondent has stated that the said land was divided into Plots and on the Northern side of the Plot, a 20 feet passage has been left and the Temple is situated in the said 20 feet passage. Further, the 2nd respondent has stated that the Temple has been erected by the 3rd respondent in the passage way without any permission from the Competent Authority viz., the District Collector, who is the Competent Authority in respect of religious structures under the Tamil Nadu District Municipality Building Rules. The 2nd respondent has also stated that the said 20 feet wide passage way is not yet been handed over the Municipality and it is not part of the public street.

4.In view of the specific averments stated in the counter affidavit of the 2nd respondent to the effect that the passage where the Temple is constructed is not part of a public street, the relief sought for in the Writ Petition cannot be granted. However, it is open to the District Collector, who is the Competent Authority in respect of religious structures under the Tamil Nadu District Municipality Building Rules, to take appropriate action with regard to the construction of the Temple without any permission.

5.With these observations, the Writ Petition is dismissed.
No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

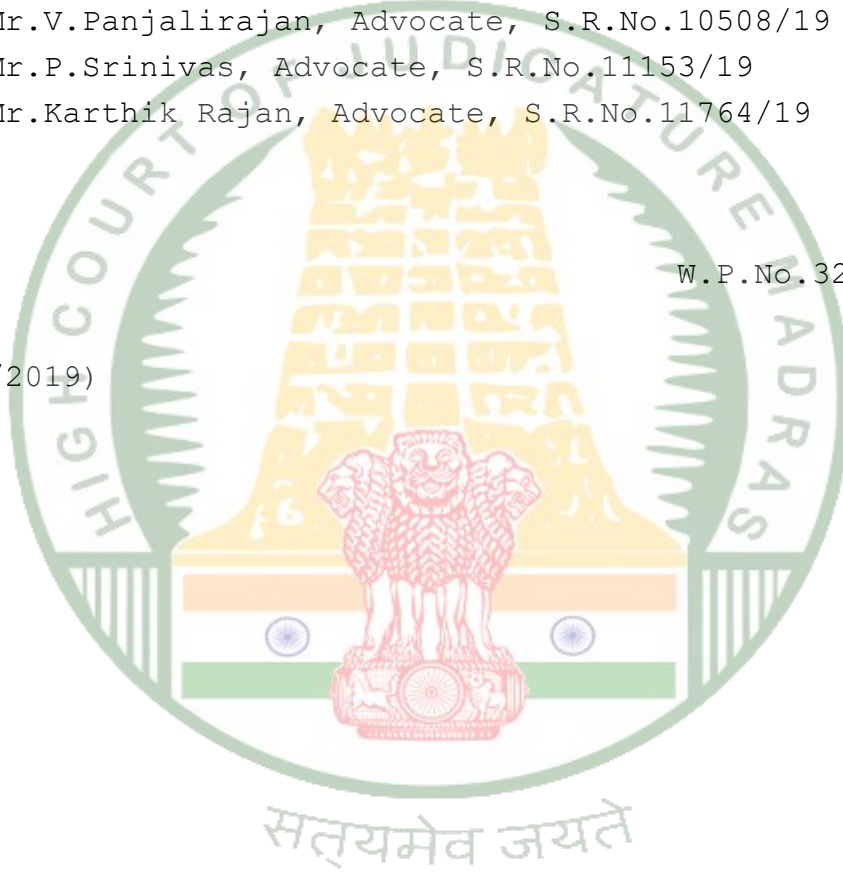
To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irvin Road, Egmore, Chennai.
2. The Commissioner,
Avadi Municipality,
Avadi, Chennai.

+4CCs to Mr.V.Panjalirajan, Advocate, S.R.No.10508/19
+1cc to Mr.P.Srinivas, Advocate, S.R.No.11153/19
+1cc to Mr.Karthik Rajan, Advocate, S.R.No.11764/19

W.P.No.32690 of 2018

sv (CO)
kak (01/03/2019)



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