



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

WEB COPY

DATE : 02.07.2019

CORAM

**THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND**

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P. (MD) NO. 14737 OF 2019

N.Nanthakumar

.. Petitioner

- Vs -

1. The Commissioner
Hindu Religious & Charitable Endowment
Department (HR & CE)
Nungambakkam High Road
Chennai 600 034.
2. The District Collector
District Collectorate
Thanjavur District.
3. The Revenue Divisional Officer
Kumbakonam, Thanjavur District.
4. The Tahsildar
Taluk Office, Thiruvidaimarudhur Taluk
Thanjavur District.
5. The Joint Commissioner (HR & CE)
Siddar Kadu, Mayiladuthurai
Thanjavur District.
6. The Assistant Commissioner (HR & CE)
Mayiladuthurai Road, Kumbakonam
Thanjavur District.
7. The Inspector of Police
Thiruvidaimaruthur Police Station
Thiruvidaimaruthur, Thanjavur Dt.



8. The Executive Officer
Aduthurai Town Panchayat
Thiruvidadaimaruthur Taluk
Thanjavur District.

9. Arulmigh Dhurapathi Amman Temple
Railway Road, rep. through its
Hereditary Trustee, K.Shanmugam
rep. through his Power Agent
A.Pannerselvam.

10. Raja

11. R.Anandavalli

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing respondents 1 to 9 to remove the encroachment and demolish the illegal and unauthorized construction made by respondents 10 and 11 at the Arulmigu Dhurapathi Amman Temple property in survey No.431/1, old survey No.122/30, patta No.1 to the extent of 0.68.50 hectares at Maruthuvakkudi Village, Thiruvidadaimaruthur Taluk, Thanjavur District, on the basis of [patta No.1 and on the basis of the petitioner's representation dated 27.6.2019.

For Petitioner : Mr.R.Rajaraman

For Respondents : Mr. A.K.Baskarapandian, Spl.G.P.
For RR-5, 6 & 8

ORDER

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

The petitioner claims to be a devotee of Arulmigu Dhurapathi Amman Temple, Maruthuvakkudi, Aduthurai Village, Thiruvidadaimaruthur Taluk, Thanjavur District and he has filed this writ petition, styled as a public interest litigation, alleging that the 9th respondent temple is under the control of Hindu Religious & Charitable Endowments Department and the private respondents are under occupation of survey No.431/1 (old survey No.122/30) admeasuring an extent of 1.69 acres as well as yet another vacant site admeasuring 54 X 24 feet, which is situate on the northern side of the temple and the hereditary trustee through a lawyer, has sent legal notice dated 19.4.19, terminating their tenancy.

2. It is the specific case of the petitioner that despite such a notice of termination issued by the hereditary trustee, who is the 9th respondent, no further action has been taken and once termination notice is issued, the continuance of the occupation is clearly illegal and also amounts to encroachment. The petitioner, in this regard, has also submitted a representation dated 27.6.19 to the respondents to take appropriate action for removal of the said encroachment and further alleged that taking advantage of the lapse on the part of the hereditary trustee of the temple, the private



respondents are also putting up construction on the land belonging to the temple without obtaining any planning permission or authorisation and, therefore, he is constrained to approach this Court by filing the present petition.

3. Heard the learned counsel appearing for the petitioner and Mr. Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of respondents 5, 6 and 8.

4. It is to be noted at this juncture that representation dated 27.6.19 is of very recent origin and even before the ink could dry, the petitioner has approached this Court seeking a positive direction in the form of mandamus.

5. Be that as it may, the 9th respondent, acting as the hereditary trustee of the temple has also caused a legal notice dated 19.4.19 to respondents 10 and 11 and also terminating their tenancy and in the light of the specific case of the petitioner that construction on the temple land alleged to have been put up by respondents 10 and 11, this Court is of the considered view that the following order would meet the ends of justice.

6. In the fitness of things, this Court, taking into consideration the above facts and circumstances and without going into the merits of the claim raised either in the representation or in the writ petition, directs the 6th respondent to put respondents 10 and 11 on notice and, thereafter, cause inspection of the land in survey No.431/1 (old survey No.122/30) admeasuring an extent of 1.69 acres as well as the vacant site on the northern side of the temple admeasuring 54 X 24 feet in Maruthuvakkudi, Aduthurai Village, Thiruvidadaimaruthur Taluk, Thanjavur District within a period of four weeks from the date of receipt of a copy of this order and depending upon the result of the inspection, the 6th respondent shall submit a report to the 5th respondent within a further period of four weeks thereafter and the 5th respondent, on receipt of the report, shall pass appropriate orders in accordance with law and also by adhering to the principles of natural justice within a further period of six weeks thereafter and communicate the decision taken to the petitioner as well as to respondents 10 and 11 and other persons concerned.

7. This writ petition is disposed of accordingly. Consequently, WMP (MD) No.11147 of 2019 is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)



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+1cc to M/S. R.RAJARAMAN, Advocate, SR.No.72727

+1 CC TO M/S. SPECIAL GOVERNMENT PLEADER, SR.NO.73200

W.P. (MD) NO. 14737 OF 2019
02.07.2019

BUC(09.07.2019) 4P 11C