



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.25050 of 2018
and W.M.P. (MD) No.22716 of 2018

Arulmigu Ayyanar, Manthaiyamman,
Muniyandeeswarar Kovil,
represented by its Managing Trustee,
S.Chellamayandi, M/57 years,
S/o.Sivanadi,
Nethaji Main Road,
Bibikulam,
Madurai - 625 002.

... Petitioner

Vs.

1.The Assistant Engineer,
Public Works Department/W.R.O.,
Irrigation Section - II,
Periyar Vaigai Basin Sub Division No.1,
Madurai - 625 002.

2.Lakshmanan

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the impugned order dated 28.11.2018 passed by the 1st Respondent and quash the same.

For Petitioner : Mr.B.Anandan

For 1st Respondent : Mr.A.K.Baskarapandian
Special Government Pleader

O R D E R

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

The petitioner claims to be the Managing Trustee of Arulmigu Ayyanar, Manthaiyamman, Muniyandeeswarar Kovil, B.B.Kulam, Madurai. According to him, the temple is in existence for over 100 years on the land comprised in Old S.No.32 and New S.No.23/24 admeasuring an extent of 7 cents. The 2nd respondent's father also purchased a small piece of land admeasuring an extent of 3 Cents in the southern side of the temple in the name of his wife Karuppayee. In addition to that he encroached 240 square feet of land belonging to the temple and constructed shops. In this regard, the petitioner has filed a



suit in O.S.No.1580 of 2004 on the file of the Court of Additional District Munsif, Madurai Town, in which, the mother of the second respondent was added as party apart from the official respondents and he obtained a decree for declaration that the land belonging to the temple and mandatory injunction directing them to remove the encroachment and to handover vacant possession within two months, by decree dated 15.11.2005. However, the private respondent did not comply with the decree and started giving trouble. Therefore, the petitioner was constrained to file E.P.No.20 of 2015 in O.S.No.1580 of 2004 to get possession by executing the decree for mandatory injunction. The grievance now expressed by the petitioner is that the second respondent has issued the impugned notice on the ground that the land in which the temple is located is classified as water body.

2.The learned counsel appearing for the petitioner by drawing the attention of this Court to the typed set of documents would submit that number of representations have been submitted, praying for patta in respect of the land in which the temple is located and the said representations was submitted to the Tahsildar, Madurai North and orders are yet to be passed and in the meanwhile there is genuine apprehension that the officials are trying to remove the temple under the guise of removal of encroachment in the water body and if the temple is removed, it would affect the sentiments of very many persons and hence, prays for appropriate orders.

3.Per contra, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondent would submit that the land in which the petitioner temple claims to be in possession and enjoyment is classified as water body and therefore, action has been taken strictly in accordance with law and prays for dismissal of the writ petition.

4.This Court considered the rival submissions and also perused the materials placed before it.

5.Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances, without going into the merits of the claim made by the petitioner in this writ petition, treats the impugned notice as a Show Cause Notice, for which the petitioner is permitted to submit his detailed response with supporting documents of genuineness and authenticity to the respondent within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the same on merits and in accordance with law and if required, give the petitioner an opportunity of personal hearing and thereafter, pass appropriate orders within a period of eight weeks thereafter and communicate the decision taken to the petitioner and till such time the possession and enjoyment of the petitioner in respect of the land and the superstructure viz., Temple shall not be disturbed.



6.This Writ Petition is disposed of accordingly.
Consequently, connected Writ Miscellaneous Petition is closed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS III)

Sub Assistant Registrar(CS)

sj

To

The Assistant Engineer,
P.W.D/W.R.O.,
Irrigation Section - II,
Periyar Vaigai Basin Sub Division No.1,
Madurai - 2.

+1 CC to M/s.B.ANANDAN, Advocate (SR-81373[F] dated 13/08/2019)

W.P (MD) No.25050 of 2018
09.08.2019

KK/SAR/29.08.2019/3P-3C/