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W.P.(MD)No.10107 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.10107 of 2020

M.E.Subbaiah

... Petitioner

Vs.

- 1.The District Collector,
Collectorate Building,
Virudhunagar District.
- 2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.
- 3.The Tahsildar,
Srivilliputhur Taluk,
Srivilliputhur,
Virudhunagar District.
- 4.The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur, Virudhunagar District.
- 5.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 6.Thangaraj
- 7.Vairavan @ Vairamuthu
- 8.Krishnamoorthi
- 9.Mariappan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachments made by the respondents 6 to 9 in Town Survey No.917, Block-8 of Srivilliputhur Municipality, Virudhunagar District.



For Petitioner : Mr.A.Balaji

For Respondents : Mr.K.P.Krishnadoss

Special Government Pleader for R.1 to R.3 and R.5

: Mr.J.Parekh Kumar
for R.4

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ORDER

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

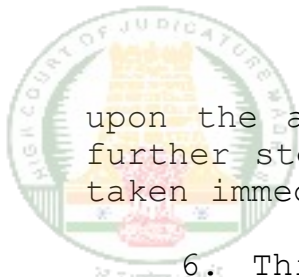
This Writ Petition styled as a Public Interest Litigation is filed by a resident of Aaladipatti, Srivilliputhur Taluk, Virudhunagar District and according to him, there exists Vinayagar Temple and Muneeswaran Temple in Town Survey No.917 of Block-8, Srivilliputhur Town, Virudhunagar District and adjacent to the said temples, there is a vast extent of land and there is a pathway in Survey No.917/1, which is leading to the said temple and it is known as "Thiruvanamalai Paathai" and the adjacent land in Survey No.917/2 is classified as School and Government Poromboke.

2. It is the specific case of the petitioner that taking advantage of the lapses/inaction on the part of the official respondents, the private respondents 6 to 9 had encroached upon the said land and putting up iron sheds and also exploiting for commercial purpose and in this regard, he has also submitted a representation dated 12.06.2019 and based upon the same, the first respondent has also issued a memo dated 14.05.2019 in O.Mu.G2/13298/2019, directing the third respondent to take appropriate action and in this regard, the Virudhunagar District Legal Services Authority has also requested the fourth respondent to do the needful, for which, the fourth respondent sent a communication dated 14.10.2019 in Na.Ka.No.3851/2019/F1, stating that steps are being taken to remove the encroachment in Survey No.917, Block No.8, Ward No.3 of Srivilliputhur Municipality.

3. The learned Counsel appearing for the petitioner would submit that despite a lapse of nearly one year, the fourth respondent did not take any action and hence, the petitioner is constrained to approach this Court by filing this Writ Petition.

4. Mr.K.P.Krishnadoss, learned Counsel accepts notice on behalf of the respondents 1 to 3 and 5 and would submit that the third respondent having found out that the land in question belongs to the local body, has requested the fourth respondent to do the needful.

5. Mr.J.Parekh Kumar, learned Counsel takes notice for the fourth respondent and would submit that the petitioner claims to be in-charge of Vinayagar Temple and Muneeswaran Temple and those temples are also termed as encroachment and taking advantage of the location of the temples, the private respondents had also encroached



upon the adjacent land and on account of COVID-19 pandemic virus, further steps could not have been taken, otherwise, they would have taken immediate action to remove the encroachments.

6. This Court has carefully considered the rival submissions and perused the materials placed on record.

7. This Court, taking into consideration the above facts and circumstances, directs the fourth respondent to remove all the encroachments even if it exists in the form of temples in respect of the land in Survey No.917/1 or any nearby adjacent lands, by following due process of law and also by adhering to the principles of natural justice and take immediate, necessary and appropriate action, within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner, encroachers and other persons concerned, if any.

8. The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Collectorate Building,
Virudhunagar District.
2. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.
3. The Tahsildar,
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Srivilliputhur,
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4. The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur,
Virudhunagar District.

5. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+1 CC to the Spl GP (SR-15110[F] dated 27/08/2020)

W.P. (MD) No.10107 of 2020
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CS(08.09.2020) 4P 7C