



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **N. KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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W.P. (MD)No.18227 of 2020

Sivalingam

... Petitioner

Vs.

1. The District Collector,
Pudukottai District.
2. The Revenue Divisional Officer,
Pudukottai District.
3. The Tahsildar,
Ponnamaravathi Taluk,
Pudukottai District.
4. The Block Development Officer,
Ponnamaravathi Panchayat Union,
Pudukottai District.
5. The President,
Koppanapatti Village Panchayat,
Pudukottai District.
6. The Executive Officer,
Arulmigu Muthumariamman Thirukovil,
Konnaiyur, Ponnamaravathi,
Pudukottai District.
7. Rajamanikam
8. SP.Murugasan
9. Mayandi
10. Ganesan
11. Jeya
12. Santha
13. Valamathi
14. Vellaiyammal
15. Nallammal
16. Chellam
17. Veluchamy
18. Sivanathan
19. Karuppaiah
20. Govindhan



21. Muthulakshmi
22. Saroja
23. Chinnathambi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the respondents 1 to 5 to remove the encroachments made by the respondents 6 to 23 in R.S.No.49/1, Konnaiyur Village, Ponnamaravathi Taluk and Pudukottai District, within the stipulated time.

For Petitioner : Mr.P.Balakrishnan

For Respondents : Mr.M.Muthugeethaiyan,
Special Government Pleader for R1 to R4
Mr.G.Madhavan for R6

ORDER

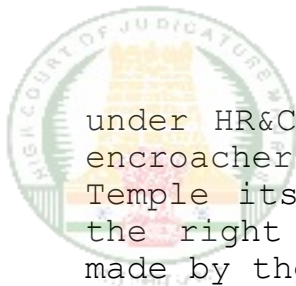
[Order of the Court was made by **N. KIRUBAKARAN, J.**]

This writ petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents 1 to 5 to remove the encroachments made by the respondents 6 to 23 in R.S.No.49/1, Konnaiyur Village, Ponnamaravathi Taluk and Pudukottai District, within the stipulated time.

2. The case of the petitioner is that the property in R.S.No.49/1, Konnaiyur Village, Ponnamaravathi Taluk, Pudukottai District, is originally a Natham Poramboke Land and near the said land, Arulmigu Muthumariamman Thirukovil is located and the land surrounding the said Muthumariamman Temple is being encroached upon by the private respondents. Therefore, the petitioner gave a representation on 10.09.2020 in this regard. Since no action has been taken by the official respondents, the petitioner has come before this Court to remove the encroachments.

3. Heard the learned counsel for the petitioner and Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.G.Madhavan, learned counsel appearing for the sixth respondent/Temple.

4. Though Mr.G.Madhavan, learned counsel appearing for the sixth respondent/Temple submits that it is a Temple land and action is being taken under the Hindu Religious and Charitable Endowments Act (hereinafter referred to as "the Act"), Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the respondents 1 to 4, by relying upon the proceedings of the Tahsildar and the Adangal Register maintained by the Revenue Authorities, submitted that 1 Acre 18 Cents is a Government poramboke land, in which, the land in dispute is situated. Therefore, if action is being taken



under HR&CE Act, it will be a prolonged one and it will enable the encroachers to squat upon the property in question. Moreover, the Temple itself is located in the poramboke land. Therefore, it is the right of the revenue authorities to remove the encroachments made by the private respondents.

WEB COPY

5. It is also seen from the typed set of papers that the encroachers already filed writ petitions in W.P.(MD)Nos. 9991 to 9997 of 2009 seeking patta and this Court, by order, dated 07.10.2009, directed the Revenue Authorities to consider the same. Pursuant to the said order, the Revenue Authorities considered the claim of the encroachers and came to the conclusion that the patta was sought for commercial purpose and therefore, rejected their claim for issuance of patta.

6. When such a decision has been taken by the Revenue Authorities and the Revenue Records itself show that the Temple is located in sarkar poramboke land, it is appropriate to direct the 3rd respondent to issue notice to the private respondents and take action as per law, after hearing all the parties, within a period of 12 weeks, from the date of receipt of a copy of this order. In case of eviction of private respondents, the land should be handed over to the Temple. It is made clear that after giving notice to the private respondents only, the 3rd respondent can proceed by invoking the Tamil Nadu Land Encroachment Act.

7. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Pudukottai District.
2. The Revenue Divisional Officer,
Pudukottai District.

<https://hcservices.ecourts.gov.in/hcservices/>



3. The Tahsildar,
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6. The Executive Officer,
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Konnaiyur, Ponnamaravathi,
Pudukottai District.

+1cc to the SPL GP SR.No.25397.

W.P. (MD) No.18227 of 2020
11.12.2020

SRK(CO)
CS(06.01.2021) 4P 8C