

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 26.03.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.3022 of 2018

G.Muthu

.. Petitioner

Versus

- 1.The Commissioner,
Chennai Greater Corporation,
Rippon Buildings,
Chennai.
- 2.The Assistant Commissioner,
Chennai Greater Corporation,
Zone-4, Thiruvottriyur High Road,
Chennai-600 021.
- 3.The Junior Engineer,
Chennai Greater Corporation,
Zone-IV, Ward No.28, E.H.Road,
E.C.I, School Backside,
Tondiorpet, Chennai-600 081.
- 4.B.Jayaraman,
- 5.Dillilibabu @ Dilli
- 6.The Executive Engineer,
Tamil Nadu Electricity Board,
Sub-Station, E.H.Road,
Durga Devi Nagar,
Tondiorpet, Chennai-81.

- 7.The Tahsildar,
Tahsildar Office,
Corporation Community Hall,
473, Thiruvottriyur High Road,
Tondiorpet, Chennai-81.

.. Respondents

(R6 and R7 impleaded as respondents vide
order dated 06.06.2018 in WMP.No.4394 of 2018)

Prayer:- Writ petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of

Mandamus directing the respondents 1 to 3 herein to take action on the representation of the petitioner dated 14.11.2017 by removing the encroachment made in the form of Sundara Vinayagar Aalayam by the 4th respondent on the 4th Main Road, Sundaram Pillai Nagar, Tondiorpet, Chennai-600 081.

For Petitioner : Mr.S.Saravanan

For Respondents : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.M.Ganesan,
Standing Counsel for R1 to R3
Mr.Ashok Menon for R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.
through video conferencing]

The petitioner, who is a resident of Door No.175-C/77, 1st Main Road, Sundarampillai Nagar, Tondiorpet, Chennai-600 081, came forward to file this writ petition alleging among other things that he is also a resident of Sundarampillai Nagar and the Secretary of the Sundarampillai Nagar Kudiyiruppor Munnetra Kazhagam [Residents Welfare Association]. It is the specific case of the petitioner that several houses are located on either side of the 2nd and 4th Main Road, Sundarampillai Nagar and both the roads are perpendicular to each other and there exists a temple called Sundara Vinayagar Temple, encroaching upon the junction of the 2nd and 4th Main road, reducing the width of the road to 10 feet and thereby causing obstruction to the free flow of traffic and also hindering the movement of heavy vehicles. The petitioner, in this regard, has submitted a representation dated 14.11.2017 to the concerned official respondents and acting upon the said representation, the office of the Deputy Collector (Administration), Greater Chennai Corporation, Chennai-600021 has sent a communication in Va.va.Na.Ka.No.A10/5316/2017 dated 21.11.2017 directing the Zonal Officer, Zone IV, Greater Chennai Corporation to take appropriate action and inform the same to the petitioner.

2. Mr.S.Saravanan, learned counsel appearing for the petitioner would submit that though nearly 3 years had elapsed from the date of the said communication, nothing is moving forward and on account of the continuous existence

of the temple by encroaching upon the public road, more problems occur in the form of traffic jam and other inconvenience to the local residents including the petitioner and therefore, prays for appropriate orders for removal of the encroachment.

3. Mrs. Narmadha Sampath, learned Additional Advocate General assisted by Mr. M. Ganesan, learned Standing Counsel appearing for the respondents 1 to 3 has drawn the attention of this Court to the counter affidavits dated 26.03.2018 and 09.07.201 with supporting documents and would submit that the inspection of the area was caused with the help of jurisdictional revenue officials as well as with the aid of Block Map and TSLR Register and the Tahsildar, Tondiorpet has given an Inspection Report dated 06.07.2018 stating that the temple has been built in the year 2005 in the main road occupying 319 SFT of the road portion and he would further add that in the light of the ongoing election process, Corporation may require some time to proceed further in accordance with law in respect of the said temple, which is occupying the public road to the extent of 319 SFT.

4. Mr. Ashok Memon, learned counsel appearing for the fourth respondent has drawn the attention of this Court to the counter affidavit as well as supporting documents and would submit that the petitioner is not a genuine litigant and he is having an axe to grind against the administration of the temple and that apart, Sundaram Pillai Nagar came to be formed by the Meenambakkam Government Servants Cooperative Housing Site Society Limited and it was a private layout and initially the said Society allotted sufficient lands for parks, temples, playgrounds etc., and the temple in question came to be located in the land reserved for public purpose and at later stage, private individuals have been given allotment and they sold to others and therefore the lands reserved for public purpose have been utilized for other purposes unauthorisedly. The learned counsel appearing for the fourth respondent would further submit that the temple in question is in existence for nearly a decade and odd and the location of the temple is not at all causing any hindrance and since other temples are also located nearer to the present place, the residents of the locality used to come to the temple during festival occasions and therefore, prays for dismissal of this writ petition.

5. It is represented that in compliance of the earlier order dated 25.02.2021, Mr.P.Akash, I.A.S., RDC (North), Greater Chennai Corporation is present through Video Conferencing for the purpose of rendering assistance to this Court and therefore, his personal appearance is dispensed with.

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

7. A perusal of the Status Report and Counter Affidavits filed on behalf of the Greater Chennai Corporation would disclose that inspection of the place/site on which the temple is located was done by the Tahsildar, Tondiorpet, in coordination with the jurisdictional Corporation officials and in terms of the Inspection Report dated 06.07.2018, the temple in question was built in the year 2005 in the main road occupying 319 Sft of the road portion. A perusal of the photographs in the typed set of documents filed in support of the writ petition would disclose that the location of the temple is projecting on the road.

8. In the light of the above facts and circumstances, this Court directs the respondents 2 to 3 to proceed further in accordance with law in respect of the occupation of the temple on the portion of the public road subject to legal interdict, if any and complete the said exercise as expeditiously as possible and not later than twelve (12) weeks from the date of receipt of a copy of this order / uploading of the order in the website and communicate the decision taken, to the petitioner as well as to the fourth respondent.

9. This Writ Petition stands disposed of accordingly.
No costs.

Sd/-

Assistant Registrar (CS VII)

/TRUE COPY/

Sub-Assistant Registrar

Jvm

To

- 1.The Commissioner,
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Tahsildar Office,
Corporation Community Hall,
473, Thiruvottriyur High Road,
Tondiorpet, Chennai-81.

+1CC TO MR.M.GANESAN, ADVOCATE, SR.NO. 20094

+2CC TO MR.ASHOK MENON, ADVOCATE, SR.NO. 20099

+1CC TO MR.S.SARAVANAN, ADVOCATE, SR.NO. 20042

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W.P.No.3022 of 2018
26.03.2021

GPL(CO)

KKN 16.04.2021