



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) Nos.7415, 10441, 11017 and 11179 of 2021

and

W.M.P (MD) .Nos.8121,8645,8755 and 8756 of 2021

W.P. (MD) No.7415 of 2021

1. K.Annaraj
2. A.Balakrishnan
3. P.Petchiraja

... Petitioners

Vs

1. The District Collector,
Madurai District,
Madurai.
2. The Commissioner,
Madurai Corporation Office,
Madurai - 625 002.
3. The Tahsildar,
Thirupparankundram Taluk,
Madurai District.
4. The City Town Planning Officer,
Madurai Corporation Office,
Madurai - 625 002.
5. A.Murugan,
Assistant Engineer,
Thirupparankundram Corporation Office,
Madurai District.

6. R.Thatchanamoothi
[Impleaded vide order dated 07.07.2021,
passed in W.M.P(MD).No.8195 of 2021]

... Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus to direct the respondents 1 to 4 to remove the encroachment made in the Survey No.207/5

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



(Thennavarayan Kulam (Tank) Poramboke) to an extent of 0.14.0 Ares situated at Thirupparankundram, Madurai South Taluk, Madurai District, based on the representation dated 09.03.2021.

For Petitioners : Mr.T.Senthil Kumar
For respondents : Mr.A.Manikkam,
Standing Counsel for Government
for R1, R3 & R4
Mr.R.Murali, for R2
R5 & R6 : No Appearance

W.P. (MD) No.10441 of 2021

R.Thatchanamoothi

... Petitioner

Vs

1. The District Collector,
Madurai District,
Madurai.
2. The Commissioner,
Madurai Corporation Office,
Madurai.
3. The Tahsildar,
Thirupparankundram Taluk,
Madurai District.
4. The City Town Planning Officer,
Madurai Corporation Office,
Madurai.
5. The Assistant Engineer,
Madurai Corporation Sub-Office,
Madurai District.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus directing the respondents not to interfere the peaceful possession and enjoyment of the vacant property for Arulmigu Kattikulam Sootukole Mayandi Swamy's Temple devotees used for disburse the free food festival place and including Karu Marryamman Temple in Survey No.207/5 to the total extent of 0.14 cents on the file of the Koodal Malai Street, Thirupparankundram, Thirupparankundram Taluk, Madurai District from the year of 1930, on the basis of the Resolution passed by the Thirupparankundram Town Panchayat Office in Resolution No.458 dated 17.10.1998.



For Petitioner : Mr.R.Udhayakumar
For respondents : Mr.A.Manikkam,
Standing Counsel for Government
for R1, R3 to R5
Mr.R.Murali, for R2

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W.P. (MD) No.11017 of 2021

Tmt.R.Abirami ... Petitioner

Vs

1. The Commissioner,
Madurai Corporation,
Madurai.
2. The Madurai District Collector,
Madurai District Collector Office,
Madurai.
3. The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

4. A.Balakrishnan ... Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus by calling for the records pertaining to the notice in M4A13/000956/2021 dated 16.04.2021 issued by the first respondent and quash the same and consequently restrain the first respondent from removing the garden maintained by petitioner in Survey No.207/5 of Thirupparankundram Village.

For Petitioner : Mr.J.Alaguram Jothi
For respondents : Mr.A.Manikkam,
Standing Counsel for Government
for R2 and R3
Mr.T.S.Mohamed Mohideen, for R1

W.P. (MD) No.11179 of 2021

Sakthi Mohan .. Petitioner

Vs

1. The Commissioner,
Madurai Corporation,
Madurai.



2. The Madurai District Collector,
Madurai District Collector Office,
Madurai.

3. The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Ma4A13/0009564/2021 dated 20.04.2021 passed by the first respondent and quash the same as illegal and consequently restrain the first respondent from removing the toilet maintained by petitioner.

For Petitioner : Mr.R.Venkatesan
For respondents : Mr.A.Manikkam,
Standing Counsel for Government
for R2 and R3
Mr.T.S.Mohamed Mohideen, for R1

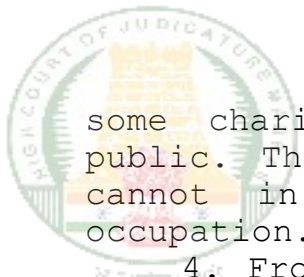
COMMON ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

The writ petition in W.P(MD).No.7415 of 2021 has been filed for a direction upon the respondents to remove the encroachment in Survey No.207/5 (Thennavarayan Kulam (Tank) Poramboke) to an extent of 0.14.0 Ares situated at Thirupparankundram, Madurai South Taluk, Madurai District, which according to the petitioner is classified as a waterbody. The other writ petitions have been filed by the encroachers challenging the notices issued by the Corporation of Madurai.

2. We have elaborately heard Mr.J.Alaguram Jothi, learned counsel appearing for the writ petitioner in W.P(MD)No.11017 of 2021; Mr.R.Venkatesan, learned counsel appearing for the writ petitioner in W.P(MD).No.11179 of 2019 and Mr.R.Udhayakumar, learned counsel appearing for the writ petitioner in W.P(MD).No.10441 of 2021, who has also been impleaded as sixth respondent in W.P(MD).No.7415 of 2021.

3. On careful perusal of the material placed before this Court, it is established that none of the encroachers have been able to produce any documents to establish their title over the property in question. All of them have uniformly stated that they are in continuous possession and enjoyment of the property for several decades and some of them had put up some construction and some of them are growing trees and the petitioner in W.P(MD).No.10441 of 2021 would state that there is a temple and there is a mandapam and



some charitable activities are being done for the worshipping public. These submissions made by the writ petitioner-encroachers cannot in any manner improve their case nor justify their occupation.

4. From the records produced by the writ petitioner K.Annaraj, it is seen that as early in the year 2013 itself, the Authorities have informed about the encroachment and the name of Tr.Ramalingam, who is the father of the writ petitioner in W.P(MD).No.10441 of 2021 has been shown as one of the encroacher and the nature of encroachment was shown as 'Solai' and therefore, even going by the said information, there was no temple in existence at that point of time.

5. Mr.R.Udhayakumar, learned counsel appearing for the petitioner in W.P(MD).No.10441 of 2021 would submit that the petitioner in W.P(MD).No.7415 of 2021 is also an encroacher.

6. In any event, the respondent-Corporation has issued notice to all the writ petitioners and if the writ petitioners in W.P(MD).No.7415 of 2021 are also encroachers, it goes without saying, the said encroachment is also to be removed. Therefore, in our considered view, the writ petitions in W.P(MD).No.10441 of 2021, W.P(MD)No.11017 of 2021 and W.P(MD).No.11179 of 2019 are devoid of merits and there is no ground established by the petitioners to interfere with the order of eviction issued by the respondent-Corporation.

7. In respect of the property in occupation of the writ petitioners in W.P(MD).No.7415 of 2021, the respondent-Corporation shall conduct an inspection and survey and if there is any encroachment, the same shall also be removed.

8. In the light of the above, the writ petitions in W.P(MD).No.10441 of 2021, W.P(MD)No.11017 of 2021 and W.P(MD).No.11179 of 2019 are dismissed and W.P(MD).No.7415 of 2021 is disposed of, by directing the respondent-Authorities to grant thirty days time to the writ petitioners namely, K.Annaraj, A.Balakrishnan and P.Petchiraja, to remove the encroachment on their own volition, failing which, the respondent-Corporation shall take action after removal of encroachment and the cost be recovered from the encroachers. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Pkn



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.

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To:

1. The District Collector,
Madurai District,
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5. A.Murugan,
Assistant Engineer,
Thirupparankundram Corporation Office,
Madurai District.
6. The Assistant Engineer,
Madurai Corporation Sub-Office,
Madurai District.

+1 CC to M/s.T.SENTHIL KUMAR,Advocate(SR-21568[F] dated 07/07/2021)

+1 CC to M/s.J.ALAGURAM JOTHI,Advocate(SR-21636[F] dated 08/07/2021)

+2 CC to M/s.T.S. MOHAMED MOHIDEEN, Advocate(SR-21572, 21573[F] dated 07/07/2021)

+2 CC to M/s.R.MURALI, Advocate(SR-21624, 21625[F] dated 08/07/2021)

W.P. (MD) Nos.7415, 10441, 11017 and 11179 of 2021
and

W.M.P (MD) .Nos.8121,8645,8755 and 8756 of 2021
07.07.2021

RC (23.07.2021) 6P-13C