



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2021

CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.P. (MD) No.8420 of 2021
and
CMP (MD) .No.6356 of 2021**

P.Rengaraj

... Petitioner

Vs

1. The District Collector,
Pudukottai District.
2. The Divisional Engineer (Highways),
Construction and Maintenance,
Pudukottai District.
3. The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Pudukottai District.
4. The Assistant Engineer (Highways),
Construction and Maintenance,
Office of the Assistant Engineer (Highways),
Kantharvakottai,
Pudukottai District.
5. The Tahsildar,
Karambakudi Taluk,
Pudukottai District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, thereby call for the records of the third respondent in Na.Ka.No.433/2019/A2 dated 03.03.2021 and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Ganapathi Subramanian

For respondents : Mr.K.Mu.Muthu,
Additional Governance Pleader



ORDER

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

We have heard Mr.P.Ganapathi Subramanian, learned Counsel appearing for the petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader accepting notice for the respondents.

2. With the consent of either Counsel, the writ petition is taken up for final disposal.

3. The writ petition challenges the proceedings of the third respondent, by which, the offending construction on the road margin is directed to be removed. Though, several grounds have been raised before us, we are not convinced to accept the same in the light of the fact that a second writ petition has been filed almost for the identical issue. The first writ petition was filed by the temple priest in W.P(MD).No.11976 of 2020, which was disposed of by order dated 17.09.2020. Thereafter, the objections were considered, peace committee was convened, in which, the petitioner also participated on 28.02.2021.

4. The learned Additional Government Pleader appearing for the respondents has read out the written instructions given by the Tahsildar, Karambakudi Taluk, wherein, it is stated that the writ petitioner and others, who are concerned about the temple, have agreed to remove the offending structure before 17.04.2021, which time is already over and subsequently, the present petition has been moved by the petitioner. Admittedly, no person has a vested right to put up any super structure or a place of worship on a public road or a road margin or on any Government property. Therefore, the petitioner cannot resist any move by the authorities to remove such offending structure.

5. The learned Counsel for the petitioner, on instructions, submitted that the petitioner will remove the super structure, but there is a 'Vel', which is being worshipped for over 40 years by the devotees, who tread by foot to the Palani Temple.

6. In any event, such a 'Vel' cannot be allowed to remain in a public road or in a road margin. Therefore, the respondents shall grant three days time to the petitioner and others to remove entire super structure and also remove the 'Vel' and place it in an unobjectionable place. If the same is not done, then the official respondents shall carryout the eviction process at the cost of the petitioner.

<https://hcservices.ecourts.gov.in/hcservices> Accordingly, the writ petition stands disposed of. No



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costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Divisional Engineer (Highways),
Construction and Maintenance,
Pudukottai District.
3. The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Pudukottai District.
4. The Assistant Engineer (Highways),
Construction and Maintenance,
Office of the Assistant Engineer (Highways),
Kantharvakottai,
Pudukottai District.
5. The Tahsildar,
Karambakudi Taluk,
Pudukottai District.

+1 CC to M/s.SPL GP (SR-17519[F] dated 26/04/2021)

W.P. (MD) No.8420 of 2021
23.04.2021

ES(CO)

AS(12.05.2021) 3P 7C
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