



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.11437 of 2021

and

W.M.P.[MD]No.8940 of 2021

R.Thatchanamoothi

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation Office,
Madurai.

2.The Assistant Commissioner (General),
Zonal-4, Madurai Corporation Office,
Madurai City.

3.Petchiraja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Mathi4/000956/2021 dated 02.07.2021 and quash the same as illegal, on the basis of the Resolution passed by the Thirupparankundram Town Panchayat Office in Resolution No.458 dated 17.10.1988.

For Petitioner : No appearance

For Respondent

Nos. 1 and 2

: Mr.R.Murali
Standing Counsel

R3

: No Appearance

O R D E R

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

Heard Mr.R.Murali, learned Standing Counsel appearing for the official respondents.

2.This writ petition has been filed for a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Mathi4/000956/2021 dated 02.07.2021 and quash the same as illegal, on the basis of the Resolution passed by the Thirupparankundram Town Panchayat Office in Resolution No.458 dated 17.10.1988.

3.Identical prayer was sought for by the very same petitioner in W.P.[MD]No.10441 of 2021, which was dismissed by order dated <https://hcservices.courts.gov.in/hcservices/>



07.07.2021. The operative portion of the order reads as follows:

"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 took action after removal of encroachment and the cost be recovered from the encroachers. No costs. Consequently, connected miscellaneous petitions are closed."

4.Following the same, this Writ Petition is also dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 Commissioner,
Madurai Corporation Office,
Madurai.

2.The Assistant Commissioner (General),
Zonal-4, Madurai Corporation Office,
Madurai City.

+1 CC to M/s.R.MURALI, Advocate (SR-21871[F] dated 09/07/2021)

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RK (22.07.2021) 3P 4C