



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2021

CORAM:

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

W.P.[MD]No.12312 of 2021

and

W.M.P.[MD]No.9665 of 2021

Tinnevelly Diocesan Trust Association,
Represented by its Secretary / Treasurer,
A.D.J.C.Manohar,
S/o. Chelladurai,
Diocesan Office New Building,
North High Ground Road,
Palayamkottai, Tirunelveli - 2.

... Petitioner

Vs.

1. The District Collector,
Tenkasi District, Tenkasi.

2. The Special Officer / Block Development Officer,
Keelakadayam Panchayat,
Kadayam Block,
Tenkasi District.

3. The Tashildar,
Tenkasi Taluk, Tenkasi.

4. Chelladurai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records related to the notice issued by the second respondent in his proceedings in Na.Ka.No.A3/1306/2021 dated 09.07.2021 and quash the same as illegal and consequent directio may be issued to the official respondents 1 to 3 to take decision afresh after hearing the petitioner and also the aggrieved parties within stipulated time and to remove all the encroachments.

For Petitioner	: Mr.T.A.Ebenezer
For Respondents 1&3	: Mr.R.Baskaran, Standing Counsel for Government
For Respondent No.2	: Mr.A.Baskaran, Government Advocate



O R D E R

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

With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.Heard Mr.T.A.Ebenezer, learned Counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 and 3 and Mr.A.Baskaran, learned Government Advocate appearing for the second respondent.

3.This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the proceedings of the second respondent dated 09.07.2021, by which, the second respondent has branded the Church as an encroacher and directed them to remove the encroachment.

4.The learned Counsel for the petitioner would submit that the Church is owned by the Tinnevelly Diocesan Trust Association and the notice has been sent to the CSI St.Stephen's Church. But, the petitioner is the proper organisation which can represent the church. Therefore, the learned Counsel for the petitioner submitted that if notice is issued to the petitioner and if enquiry is conducted and measurement is made and if it is found that there is encroachment made by the Church, the petitioner association will immediately take steps to remove the encroachment. Therefore, the petitioner prays for an opportunity.

5.In the light of the above, we direct the petitioner association to treat the impugned notice as the show cause notice and make their submissions and also undertaking that they are ready to remove, if encroachment is found. On receipt of the reply, the second respondent shall fix a date for inspection of the property and measure the property and earmark the encroachment, if any, and if encroachment is found, unconditionally, the petitioner should agree to remove the encroachment and time may be specified by the second respondent to complete the task. If the petitioner fails to remove the encroachment within the time permitted by the second respondent, the second respondent shall remove the encroachment and recover the cost. However, if there is no encroachment, the second respondent can give an order in writing to the said effect to the petitioner.

6.With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// 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 District Collector,
Tenkasi District,
Tenkasi.
2. The Special Officer / Block Development Officer,
Keelakadayam Panchayat,
Kadayam Block,
Tenkasi District.
3. The Tashildar,
Tenkasi Taluk,
Tenkasi.

+1 CC to M/s.A.BASKARAN, Advocate (SR-23604[F] dated 23/07/2021)

W.P. [MD]No.12312 of 2021
22.07.2021

RC (03.08.2021) 3P-5C