



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.16720 of 2021

Malaichamy

... Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Tahsildar,
Melur Tahsildar Office,
Melur, Madurai District.

3.The Block Development Officer,
Melur Union, Madurai District.

4.The Panchayat President,
Semmanipatti Panchayath,
Melur Union, Madurai District.

...Respondents

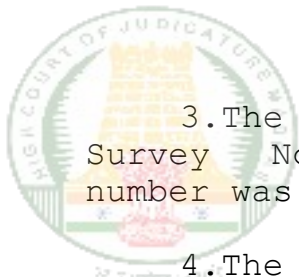
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first and second respondents to issue patta and allot the community hall in Survey No.38 in Semmanipatti Village, Melur Taluk, Madurai District as per the order in W.P.(MD). No.23739/2018.

For Petitioner	: Mr.S.Asaithambi
For R1 & R2	: Mr.K.S.Selva Ganesan
	Counsel for State
For R3 & R4	: Mr.R.Suresh Kumar

ORDER

The petitioner seeks a direction to the first and second respondents to issue patta and allot a community hall in Survey No.38 of Muthusampatti Village, Melur Taluk, Madurai District.

2.The petitioner states that the writ petition is filed on behalf of the devotees of Sri Vinaitheerkum Vinayagar Temple at Muthusampatti Village, Semmanipatti Panchayath.



3.The petitioner states that the said temple is situated at Survey No.21/2A. Pursuant to Natham Settlement, the said survey number was changed as Survey No.712/4.

4.The petitioner states that the temple is 25 feet away from the Panchayath Road. If such temple is removed, it would adversely impact the devotees of such temple. The petitioner also states that W.P.(MD)No.23739 of 2018 was filed as a Public Interest Litigation before the Division Bench of this Court and this Court by order dated 07.12.2018 directed the respondents therein to construct the community hall at Survey No.38. The present writ petition is filed both for grant of patta and for the construction of the community hall.

5.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of the first and second respondents and Mr.R.Suresh Kumar, learned Standing Counsel, accepts notice on behalf of the third and fourth respondents. On instructions, Mr.K.S.Selva Ganesan submits that the construction at Survey No.712/4 is an encroachment. The relevant property is classified in the revenue records as a Panchayat Road. Therefore, he submits that patta cannot be issued in respect thereof to the temple. As regards the construction of the community hall, he states that such construction would be completed as directed by the Division Bench in W.P.(MD).No.23739 of 2018.

6.In light of the submission of learned counsel for the State that the construction at Survey No.712/4 is by way of encroachment, the petitioner is not entitled to the grant of patta in respect thereof. Needless to say, it is open to the Tahsildar concerned to institute appropriate proceedings for removal of encroachment in accordance with the Tamil Nadu Land Encroachment Act, 1905.

7.As regards the construction of the community hall, the order of the Hon'ble Division Bench directs the official respondents to carry out and complete such construction. Therefore, the said order should be complied with.

8.With the above observations, W.P.(MD).No.16720 of 2021 is disposed of without any order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sn/Sji



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,
Madurai District.

2.The Tahsildar,
Melur Tahsildar Office,
Melur, Madurai District.

+1 CC to M/s.SPL. GP (SR-29581[F] dated 20/09/2021)

+1 CC to M/s.S.ASAITHAMBI, Advocate (SR-29700[F] dated 21/09/2021)

W.P (MD) .No.16720 of 2021
17.09.2021

NSN(CO)
KB(27.09.2021) 3P 5C