



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.20677 of 2019

and

W.M.P. (MD)Nos.17293 of 2019 and 2423 of 2021

R.K.Neelakandan

... Petitioner

Vs.

- 1.The Principal Secretary to Government of India-cum-Chairman of Apex Committee (Smart City Mission), Ministry of Urban Development, Nirman Bhawan, Maulana Azad Road, New Delhi - 110 011.
- 2.The Chief Secretary to Government of Tamil Nadu-cum-State Mission Director, State Level High Powered Steering Committee, Smart City Mission, Fort St. George, Chennai.
- 3.The Superintending Archaeologist, Archaeological Survey of India, Chennai Circle, Fort St. George, Chennai.
- 4.The Competent Authority-cum-the Principal Secretary and Commissioner, Department of Archaeological, Tamil Valarchi Valaagam, Halls Road, Egmore, Chennai.
- 5.The Conservation Assistant, Archaeological Survey of India, Thanjavur Sub-Circle, Big Temple Complex, Thanjavur.
- 6.The District Collector, Thanjavur District, Thanjavur.



7.The Managing Director,
Thanjavur Smart City Limited,
Municipal Corporation Building,
Gandhiji Road,
Thanjavur - 613 001.

8.The Commissioner,
Thanjavur City Municipal Corporation,
Gandhiji Road, Rajakrishnapuram,
Shivaji Nagar,
Thanjavur, Tamil Nadu - 613 001.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, forbearing the respondents 1, 2, 6, 7 and 8 from in any way implementing, executing the Smart City Project by carrying out alteration, modification, demolition and construction works within the Regulated area from that of ''Arulmigu Brihadeeswarar Temple'' also famously known as the ''Big Temple'' at Thanjavur without proper approval or clearance from the competent authority as mandated under Ancient Monuments and Archaeological Sites and Remains (Amendments and Validation) Act, 2010 and Ancient Monuments and Archaeological Sites and Remains (Framing of Heritage Bye-Laws and other Functions of the Competent Authority) Rules, 2011.

For Petitioner :Mr.N.R.Elango
Senior Counsel
for Mr.E.Vijay Anand

For R1, R3 and R5 :Mr.G.Rajaraman
Central Government Standing Counsel

For R2, R4 & R6 :Mr.N.Shanmuga Selvam
Additional Government Pleader

For R7 & R8 :Mr.N.Dilipkumar
Standing Counsel

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file this Public Interest Litigation forbearing respondent Nos.1, 2, 6, 7 and 8 from carrying out the proposed Smart City Project without getting approval from the Archaeology Department.

2.Mr.N.Dilipkumar, learned Standing Counsel appearing for respondent Nos.7 and 8 submitted that the as on today the project has been put on hold for awaiting appropriate orders.



3. In the counter affidavit filed by respondent No.3, the following statement has been made:-

''7. It is respectfully submitted that the 7th respondent, the Commissioner/Managing Director, Thanjavur, Smart City Ltd., Thanjavur, has submitted following proposals to the ASI (3rd respondent) for consideration:

1) Proposal for redevelopment of Moat at Thanjavur vide letter dated 27.09.2019.

2) Redevelopment of Beththannan Kalairangam as open air amphitheatre in Thanjavur, vide letter dated 04.09.2019.

3) Renovation of Sivagangai Park and Pond in Thanjavur vide letter dated 04.09.2019.

Since all the above proposals fall within the protected area of the centrally protected monument - Sivaganga Little Fort enclosing the Great Temple, Thanjavur, the proposals have been forwarded to the Director General, ASI, New Delhi, who is Competent Authority in this matter as per Section 19(1) of AM & ASR Act, 1958 and A & V Act, 2010 and hence, it is stated that the proposals are under process as on date.''

4. In such view of the matter, we call upon the Director General of Archeology and Survey of India, New Delhi, who is the competent authority as per Section 19(1) of the Ancient Monuments and Archaeological Sites and Remains (Amendments and Validation) Act, 2010, to take a final call in this matter, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall be maintained, meaning thereby, no construction shall be taken place.

5. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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.

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



To

1.The Principal Secretary to Government of India-cum-Chairman of Apex Committee (Smart City Mission), Ministry of Urban Development, Nirman Bhawan, Maulana Azad Road, New Delhi - 110 011.

2.The Chief Secretary to Government of Tamil Nadu-cum-State Mission Director, State Level High Powered Steering Committee, Smart City Mission, Fort St. George, Chennai.

3.The Director General of Archeology and Survey of India, New Delhi.

4.The Superintending Archaeologist, Archaeological Survey of India, Chennai Circle, Fort St. George, Chennai.

5.The Competent Authority-cum-the Principal Secretary and Commissioner, Department of Archaeological, Tamil Valarchi Valaagam, Halls Road, Egmore, Chennai.

6.The Conservation Assistant, Archaeological Survey of India, Thanjavur Sub-Circle, Big Temple Complex, Thanjavur.

7.The District Collector, Thanjavur District, Thanjavur.

8.The Managing Director, Thanjavur Smart City Limited, Municipal Corporation Building, Gandhiji Road, Thanjavur - 613 001.

9.The Commissioner, Thanjavur City Municipal Corporation, Gandhiji Road, Rajakrishnapuram, Shivaji Nagar, Thanjavur, Tamil Nadu - 613 001.



+1 CC to Mr.G.RAJARAMAN, Advocate (SR-8051[F] dated 02/03/2021)

+1 CC to SPL GP (SR-8221[F] dated 02/03/2021)

+1 cc to Mr.P.Thilakkumar , Advocate SR.No.1609

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