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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.19074 OF 2012

AND

W.M.P.NO.1 OF 2012

Sri Vengeeswarar Alagar Perumal
and Nagathamman Koil Devasthanam
Represented by its hereditary trustee
Prem Anand, Saidapet Road,
Vadapalani, Chennai-600 026.

... Petitioner

Vs.

1. The Secretary,
State Highways and Minor Ports
Department, Fort St.George,
Chennai-600 009.
2. The Divisional Engineer,
Highways,
Chennai Metropolitan Development Project,
Division-1, Guindy, Chennai-32.
3. The District Collector,
Chennai.
4. Chennai Metropolitan Rail Limited,
Rep by its Managing Director,
Harini Towers,
No.7, Conren Smith Road,
Gopalapuram, Chennai-600 086.
[(R3- Impleaded as per Order dated
23.07.2012 by RSJ in WP.No.19074/12)
(R4- Impleaded as per Order dated
20.02.2013 by KVJ in MP.1/13
in WP.No.19074/12)]

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession, enjoyment and occupation of the properties situate at T.S.No.34 (R.S.No.37/7), Block No.5, 100 feet Road, Vadapalani, Chennai-



600 026, situated on the Northern Side of Arulmigu Vengeeswarar Temple and belonging to the petitioner Temple, except by due process of law.

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For Petitioner	: Mr.PL.Narayanan
For Respondents R1 to R3	: Mr.M.Muthusamy
	Government Advocate
For Respondent R4	: Mr.Sivavarthan

O R D E R

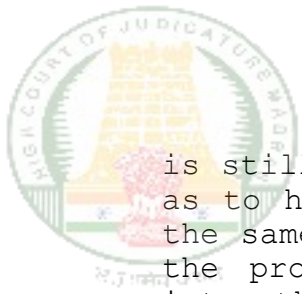
The petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property.

2. The case of the petitioner institution is that the petitioner Devasthanam owned the property comprised in T.S.No.34 (R.S.No.37/7), Block No.5, 100 feet Road, Vadapalani, Chennai. While so, a portion of the larger extent of properties belonging to the petitioner institution was acquired for formation of the 100 feet road by the State Highways Department. Since, the lands comprised in the above said survey number was not covered however, the respondents interfering with the petitioner's peaceful possession and enjoyment of the property. Aggrieved by the same, this Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that as against the illegal act of the respondents, the petitioner institution filed a Civil Suit in C.S.No.1514 of 1991 and the same was dismissed. Aggrieved by the same, he filed appeal in O.S.A.No.217 of 2006 and the same was allowed in favour of the petitioner remanding back the matter to the trial Court to hear the suit and to decide the same according to law by adverting to the points of controversy on the basis of material evidence on record. He further submitted that though there was no notice issued as against the petitioner institution for dispossession, the respondents frequently interfering with the petitioner's peaceful possession and enjoyment of the property.

4.The learned Government Advocate appearing for the respondents 1 to 3 submitted that though the respondents claim that the disputed property was owned by the Highways Department however, without due process of law, the petitioner was in possession of the disputed property. Accordingly, he prays for dismissal of the petition.

5. It transpires that the respondents claim that the property is owned by them however, the petitioner claims that he



is still in possession of the property. However, it is not known as to how the petitioner is in possession of the property, when the same has been acquired by the respondents. The possession of the property being a disputed question, this Court cannot go into the same. Therefore, the petitioner institution is at liberty to workout the remedy in accordance with law.

6. This writ petition is accordingly disposed of with the aforesaid direction. However liberty granted to the respondent to follow due process of law before evicting the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

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PMK(CO)
PM/17/03/2022