



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.28633 of 2013 & 23422 of 2014  
and

W.M.P.Nos.1, 2 of 2013, 1 of 2014 & 1 of 2015

1.S.Kandasamy  
2.K.Kamala  
3.K.Thenmozhi Pinki  
4.K.Sri Ramya Deepa  
5.K.Devapriya  
6.K.Raja Indira ...Petitioners in W.P.No.28633 of 2013

Petitioners 2 to 6 are impleaded as per order dated 06.02.2015 made in W.M.P.No.1 of 2014 in W.P.No.28633 of 2013.

1.K.Kamala  
2.K.Thenmozhi Pinki  
3.K.Sri Ramya Deepa  
4.K.Devapriya  
5.K.Raja Indira ...Petitioners in W.P.No.23422 of 2014

Vs.

1.District Collector,  
Salem District,  
Salem.  
  
2.Revenue Divisional Officer,  
Salem,  
Salem District.  
  
3.Tahsildar,  
Vazhappadi Taluk,  
Vazhappadi,  
Salem District.  
  
4.Deputy Superintendent of Police,  
Vazhappadi,  
Salem District.



5. Inspector of Police,  
Vazhappadi Police Station,  
Vazhappadi,  
Salem District.

6. Executive Officer,  
Arulmigu Belur Easwaran Koil,  
In-charge of Arulmigu Selva Vinayagar Koil,  
Belur, Vazhappadi Taluk,  
Salem District.

... Respondents in  
W.P.No.28633 of 2013

1. Director General of Police,  
Chennai - 600 004.

2. Superintendent of Police,  
Salem,  
Salem District.

3. District Collector,  
Salem District,  
Salem.

4. Revenue Divisional Officer,  
Salem,  
Salem District.

5. Tahsildar,  
Vazhappadi Taluk,  
Vazhappadi,  
Salem District.

6. Deputy Superintendent of Police,  
Vazhappadi,  
Salem District.

7. Inspector of Police,  
Vazhappadi Police Station,  
Vazhappadi,  
Salem District.

8. Executive Officer,  
Arulmigu Belur Easwaran Koil,  
In-charge of Arulmigu Selva Vinayagar Koil,  
Belur, Vazhappadi Taluk,  
Salem District.

.. Respondents in W.P. 23422/2014



Prayer in W.P.No.28633 of 2013: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3<sup>rd</sup> respondent in his proceedings Na.Ka.No.9266/2010/Aa dated 13.12.2011 and quash the same, and direct the respondents to survey the property belonging to the temple and the Government, in Survey No.174/5 and 174/4 and also the petitioner's land situated in Survey No.181/13, Salem Cuddalore Main Road, Vazhappadi, Vazhappadi Taluk, Salem District and pay damages to the tune of Rs.5 lakhs to the petitioner for the building demolished by the respondents.

Prayer in W.P.No.23422 of 2014: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to take action on the representations made by the petitioners dated 03.03.2012, 06.03.2012, 07.03.2012 and 04.04.2012.

For Petitioners : Mr.P.Ganesan  
(in both WPs)

In W.P.No.28633 of 2013:-

For R1 to R5 : Mr.G.Nanmaran  
Special Government Pleader

For R6 : Mr.K.Karthikeyan  
Government Advocate (HR & CE)

In W.P.No.23422 of 2014:-

For R1 to R7 : Mr.G.Nanmaran  
Special Government Pleader

For R8 : Mr.K.Karthikeyan  
Government Advocate (HR & CE)

#### COMMON ORDER

W.P.No.28633 of 2013 has been filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 3<sup>rd</sup> respondent in his proceedings Na.Ka.No.9266/2010/Aa, dated 13.12.2011 and quash the same, and direct the respondents to survey the property belonging to the Temple and the Government, in Survey No.174/5 and 174/4 and also the petitioner's land situated in Survey No.181/13, Salem Cuddalore Main Road, Vazhappadi, Vazhappadi



Taluk, Salem District and pay damages to the tune of Rs.5 lakhs to the petitioner for the building demolished by the respondents.

2. W.P.No.23422 of 2014 has been filed praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to take action on the representations made by the petitioners dated 03.03.2012, 06.03.2012, 07.03.2012 and 04.04.2012.

3. It is the case of the petitioners that they are the owners of the property, which is situated in Survey No.181/3 at Salem Cuddalore Main Road, Vazhappadi Village, Salem District. It is the further case of the petitioners that in respect of the a pathway dispute, applications were filed for measurement of the property by the daughters of the 1<sup>st</sup> petitioner. Measurement of the property allegedly revealed that there was encroachment in front of Survey Nos.174/13, 174/14, by constructing shops. It is the claim of the petitioners that they have not caused any encroachment. However, the 3<sup>rd</sup> respondent passed the impugned order dated 13.12.2011 directing the petitioners to remove the encroachment made by them over the temple land as well as Government poramboke, situated in Survey Nos.173/13 and 174/14, challenging the said impugned and also for consideration of their various representations, the present writ petitions have been filed.

4. During the pendency of the writ petitions, by order dated 24.10.2013, this Court passed an interim order in W.P.No.28633 of 2013 and the relevant portion of the same reads as under :-

"2.The issue raised in this writ petition could be resolved only in case a survey report is obtained from the Tahsildar.

3.The third respondent is directed to measure the property in Survey Nos.174/5, 174/4 and 181/13 on the basis of the revenue records and the tile deeds of the respective parties. Notice should be issued to the petitioner and the 6<sup>th</sup> respondent to take part in the process of measurement. The petitioner should also be permitted to take the assistance of his Advocate during the time of measurement. While issuing notice, minimum one week time should be given before the date of survey.

4.The Tahsildar is directed to submit a report and sketch with regard to the measurement before this Court, positively, by 25.11.2013. A copy of the report and sketch should also be given to the petitioner."



5. Pursuant to the above, it appears that the Tahsildar has not filed any report and sketch with regard to the measurement before this Court. However, on a perusal of the common counter affidavit filed by the Executive Officer, Arulmigu Belur Easwaran Koil, In-charge of Arulmigu Selva Vinayagar Koil, Vazhappadi, Salem District, reveals that pursuant to the direction of this Court, they have conducted re-survey/re-measurement and filed a report before this Court, but no such report is available on record. According to the Executive Officer, the encroachments made in the property belonging to the Temple were removed. Mr.K.Karthikeyan, learned Government Advocate (HR & CE) has produced a copy of the letter of the Executive Officer, Arulmigu Belur Easwaran Koil, In-charge of Arulmigu Selva Vinayagar Koil, dated 08.02.2022, wherein it has been stated that the land in Survey No.174/13 is under the possession of the Temple and the land in Survey No.181/13 is not under the possession of the Temple and the land is not used by the Temple. He has also submitted that in respect of the two encroachments, one encroachment has already been removed and the other encroachment will be removed in the manner known to law.

6. In view of the above, the veracity of the contentions and claims made by the parties, would come to light only in the event of re-survey being conducted by the authorities. Hence, this Court issues a direction to the respondents to measure the property owned by the 1<sup>st</sup> petitioner as well as one Manickam, after due notice to the parties and, if any, encroachment is made, the 2<sup>nd</sup> respondent is directed to remove the encroachment in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

sp/vsi2  
To  
1.The District Collector,  
Salem District,  
Salem.



2.The Revenue Divisional Officer,  
Salem,  
Salem District.

3.The Tahsildar,  
Vazhappadi Taluk,  
Vazhappadi,  
Salem District.

4.The Deputy Superintendent of Police,  
Vazhappadi,  
Salem District.

5.The Director General of Police,  
Chennai - 600 004.

6.The Superintendent of Police,  
Salem,  
Salem District.

7.The Inspector of Police,  
Vazhappadi Police Station,  
Vazhappadi,  
Salem District.

8.Executive Officer,  
Arulmigu Belur Easwaran Koil,  
In-charge of Arulmigu Selva Vinayagar Koil,  
Belur, Vazhappadi Taluk,  
Salem District.

+2 Ccs to M/s.C.S. Associates sr 16162 & 16161  
+1 Cc to The Government Pleader sr 16486 & 16701

W.P.Nos.28633 of 2013  
and 23422 of 2014

GSM(CO)  
SP(06/04/2022)