



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

WEB COPY

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6652 of 2022

1.K.Ravi

2.P.Santhosh

...Petitioners

Vs

1.The District Collector,
Chennai District,
Chennai.

2.The Commissioner,
Greater Chennai Corporation,
Ribon Building,
Chennai - 600 003.

3.The Regional Deputy Commissioner (Central),
Greater Chennai Corporation,
Regional Office - Central,
No.2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

4.The Tahsildar,
Nungambakkam-Egmore Taluk,
Chennai District.

5.T.Sethuraman

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the respondents, particularly the third respondent's impugned notice dated 28.02.2022 vide Ref: Notice No.Zone:VIII/Enc/Dn.108/414/2022 and quash the same and consequently prevent the third respondent from taking any hasty steps to demolish the name of removal of the encroachment of the temple of Arulmigu Muthumari Amman Alayam situated at Vallalar



Street, Padmanabha Nagar, Chennai-00 094 on the basis of the 1st petitioner's representation dated 7.3.2022.

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For the Petitioners : Mr.R.Thanjan

For the Respondents : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.S.J.Md. Sathik
Government Advocate
for respondent Nos.1 and 4

: Mr.R.Gopinath
Standing Counsel
for respondent Nos.2 and 3

: Mr.J.Dinesh
for respondent No.5

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

By this writ petition, a challenge is made to the notice dated 28.02.2022, by which a direction was given to remove the construction raised on the road belonging to the Greater Chennai Corporation. The challenge to the aforesaid notice has been made to save the construction/temple allegedly not affecting anyone.

2. It is stated that similar constructions/temples exist throughout the State of Tami Nadu on the road side and no action was taken to remove them. Therefore, in isolation, an action may not be permitted, especially, pursuant to the grievance raised by only one person. The devotees are coming to the temple for worship and, therefore, the impugned notice may be set aside. More so, when it was constructed with the contribution of the people.

3. We have considered the submissions made by learned counsel for the petitioners and also perused the materials available on record.

4. Learned counsel for the petitioners could not show any right of the petitioners or right of the people in the locality



to construct a temple or raise any construction on the land belonging to the Chennai Greater Corporation or the State Government. No right for it could be established by referring to any provision of law. The photographs produced by the petitioners apparently show obstruction on the road affecting free movement. May be, it is a small construction, but cannot be permitted on the road side.

5. The Apex Court, in the case of Union of India v. State of Gujarat, (2011) 14 SCC 52, held that no unauthorised construction shall be permitted in the name of temple, church, mosque or gurdwara on public streets, public parks or places and if it is raised, it has to be removed.

6. Merely because the construction was raised with the contribution of the people, it cannot be allowed to stand and it otherwise obstructs the road. Accordingly, we do not find any substance in the challenge made to the impugned notice. However, if the petitioners so choose, they can lift the construction to establish it elsewhere in the land belonging to the villagers or the petitioners, but not on the road side so as to obstruct the free flow of the traffic.

7. With the aforesaid, the writ petition is disposed of. No costs. Consequently, W.M.P.Nos.6730 and 6731 of 2022 are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

- 1.The District Collector,
Chennai District,
Chennai.
- 2.The Commissioner,
Greater Chennai Corporation,
Ribon Building,
Chennai - 600 003.



3. The Regional Deputy Commissioner (Central),
Greater Chennai Corporation,
Regional Office - Central,
No.2nd Cross Street (East)
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

4. The Tahsildar,
Nungambakkam-Egmore Taluk,
Chennai District

+1 CC to Mr.R.Thanjan, Advocate sr 29031
+1 CC to Mr.R.Gopinath, Advocate sr 28453.
+2 CCS to Mr.J.Dinesh, Advocate sr 29061.

W.P.No.6652 of 2022

SPD(CO)
SP(02/05/2022)