



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.16276 of 2022

R.Senthil Kumar

.. Petitioner

Vs

- 1 The District Collector
District Collector Office
Thiruppur.
- 2 The Assistant Commissioner (HR&CE)
Sivanmalai Arulmigu Subramania Swami
Thirukkivil, Sivanmalai, Thiruppur District.
3. The Tahsildar
Kangeyam, Thiruppur District.
4. The President
Sivanmalai Village Panchayat
Kangeyam Taluk, Thiruppur District.

5. N.S.Rajkumarmandradiyar

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the Respondents 1 to 3 to take appropriate action to remove the encroachment caused by the 5th respondent over the property comprised in NSF. No. 1614/17 (old No. 1095/1) NSF. No. 1614/19 (Old No. 1095/1) and NSF. No. 1614/14 (Old SF. No. 1095/1) at Sivanmalai Village Kangeyam Taluk Thiruppur District by considering the representation of the petitioner herein dated 21.11.2020 within an appropriate time.

For the Petitioner : Mr.R.Nalliyappan



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For the Respondents
1 to 3

: Mr.P.Muthukumar
State Government Pleader
Assisted by Mr.Alagu Gowtham
Government Advocate

ORDER

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

The writ petition has been filed to seek a direction to the respondents 1 to 3 to take appropriate action to remove the encroachment caused by the 5th respondent over the property comprised in NSF.No.1614/19 (Old No. 1095/1) and NSF. No. 1614/14 (Old SF. No. 1095/1) at Sivanmalai Village, Kangeyam Taluk, Thiruppur District.

2. A representation before filing the writ petition was given by the petitioner, wherein an allegation has been made that in NSF No.1614/19, a Mandapam was constructed by the 5th respondent one N.S.Rajkumarmandradiyar and his wife Jayashree. The Patta of the Government land ie., the path leading to the aforesaid Mandapam comprised in NSF.No.1614/14 has been obtained through benami transaction and the land was usurped by sale.

3. The facts stated in the representation shows that the Patta is alleged to have been obtained, but a copy of the same has not been placed on record to find out the area in the Patta. Further, no challenge to the Patta has been made. Yet, a direction has been sought to remove the Mandapam alleging it to be encroachment. The photographs on record further shows the Mandapam to be an old construction and therefore, the petition seems to be nothing but to settle the personal scores with the private respondent. Otherwise, it could not be explained by the petitioner as to why he could not file a suit for injunction immediately when the construction was started by the private respondent, and thereby allowing them to complete the Mandapam.

4. In view of the above, we do not find the present public interest litigation to be bonafide and otherwise, without challenge to the Patta, a direction to remove the alleged encroachment has been sought for.

5. Therefore, the writ petition is dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand Only) to be deposited with the Tamil Nadu State Legal Services Authority, High Court, Chennai 600 104 within a period of one month from the date of receipt of a copy of this order. The compliance would be seen by the Registrar (Judicial) and if the payment of costs is not made within the time stipulated above, the case would be listed



before this Court to see the compliance or take appropriate action for non-compliance.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kst

To:

- 1 The District Collector
District Collector Office
Thiruppur.
- 2 The Assistant Commissioner (HR&CE)
Sivanmalai Arulmigu Subramania Swami
Thirukkivil, Sivanmalai, Thiruppur District.
3. The Tahsildar
Kangayam, Thiruppur District.
4. The President
Sivanmalai Village Panchayat
Kangayam Taluk, Thiruppur District.

Copy to:

The Secretary,
Tamil Nadu State Legal Services Authority,
High Court, Chennai.

2.The Registrar (Judicial)
High Court,Madras.

3.The Section Officer,
Writ Section,
High Court,Madras.

+1 cc to Mr.R.Nalliappan, Advocate Sr.NO.40892

+1 cc to Government Pleader Sr.NO. 42144,41935,41428

W.P.No.16276 of 2022

SKM(CO)

A.SK(08/07/2022)