



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.11790 of 2022

Murugarasu

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector, Thanjavur District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pattukottai, Thanjavur District.
- 3.The Tahsildar,
Office of the Tahsildar,
Pattukottai, Thanjavur District.

4.Gunasekaran

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondent No.1 to 3 to take appropriate action against the respondent No.4 regarding the illegal construction of the house and encroachment in land belongs to the Shri Balasubramaniasamy Temple situated in the Navakollaikadu Village, Pattukottai Taluk, Thanjavur district in the light of the petitioner's representation, dated 01.06.2022.

For Petitioner

:Mr.Mr.K.Pragadeesh Kumar

For R1 to R3

:Mr.J.Ashok

Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to take appropriate action against the respondent No.4 regarding the illegal construction of the house and encroachment in land belongs to the Shri Balasubramaniasamy Temple situated in the Navakollaikadu Village, Pattukottai Taluk, Thanjavur District in the light of the petitioner's representation, dated 01.06.2022.



2.Heard Mr.K.Pragadeesh Kumar, learned Counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader, who takes notice on behalf of R1 to R3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.It is the case of the petitioner that there is a temple, namely, Shri Balasubramaniam Temple situated in S.Nos.53/37, 53/38 and 53/28, Navakollaikadu Village, Pattukottai Taluk, Thanjavur District. It is the further case of the petitioner that the fourth respondent had illegally constructed a house encroaching into the land belongs to the temple in the survey fields above referred to.

4.Even though the act of the fourth respondent was questioned by the village people, it is stated that the fourth respondent threatened the villagers. Stating that the representation made to the Revenue Divisional Officer, Pattukottai to survey the lands and to fix boundary stones is not considered, the above Writ Petition has been filed.

5.This Court is unable to entertain the Writ Petition for the reason that the petitioner has not stated as to the character of the temple, whether it is a public or private temple. The learned Additional Government Pleader, on instructions, submitted that the temple described by the petitioner in the affidavit is a private temple and not a temple under the control of HR & CE Department.

6.If the temple in question is not a public temple as defined under the provisions of HR & CE Act, the property is not the property of religious institution in respect of which, any action can be initiated by the temple authorities. In this Writ Petition, the Executive Officer or anyone, who is in the administration of the temple is not impleaded as a party.

7.Going by the submissions of the learned Additional Government Pleader, this Court is of the view that the property, which is stated to have been owned by a private temple, is not a public property and cannot be treated as a public premise or pathway or a land belongs to any statutory body, so that any of the respondents may do something atleast for the purpose of identifying the encroachments, if any, in the presence of the alleged encroachers.

8.The revenue officials have no right to deal with the private dispute between two individuals. In this case, the question, whether the fourth respondent has encroached the property of the temple can be gone into only by the Civil Court, as the Civil Court is competent to grant appropriate relief. Therefore,



this Writ Petition is dismissed with liberty to the petitioner or anyone interested in the temple to approach the Civil Court for appropriate relief. No costs.

Sd/-

Assistant Registrar (CS-II)

WEB COPY

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Cmr

To

- 1.The District Collector,
Office of the District Collector,
Thanjavur District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pattukottai, Thanjavur District.
- 3.The Tahsildar,
Office of the Tahsildar,
Pattukottai, Thanjavur District.

W.P (MD) No.11790 of 2022
15.06.2022

RD(27.06.2022) 3P 4C