



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.9545 of 2019

and

W.M.P. (MD) .No.7513 of 2019

WEB COPY

S.Kathiresamani

... Petitioner

Vs.

1.The Divisional Railway Manager,
Southern Railway, Madurai Division,
Madurai.

2.The Station Master,
Thoothukudi Melur Railway Station,
Thoothukudi District.

3.The Estate Officer (Southern Railway),
Divisional Office, Works Branch,
Madurai.

4.The District Collector,
Thoothukudi District,
Thoothukudi.

5.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from demolishing "Varatha Vinayakar Temple" situated at Keelarathaveethi (Second Gate) adjacent to Thoothukudi-Melur Railway Station, in the light of the petitioner's representation dated 23.03.2019.

For Petitioner : Mr.J.David Ganesan

For R1 to R3 : Mr.S.Manohar
Standing Counsel

For R-4 : Mr.M.Lingadurai
Special Government Pleader

For R-5 : Mr.Saji Bino
Standing Counsel



O R D E R

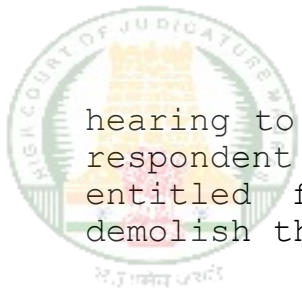
This writ petition has been filed for a Mandamus seeking for a direction to the respondents to forbear them from demolishing Varatha Vinayakar Temple situated at Keelarathaveethi (Second Gate) adjacent to Thoothukudi-Melur Railway Station based on the petitioner's representation dated 23.03.2019 within a time frame to be fixed by this Court.

2. The case of the petitioner is that the aforementioned temple is attempted to be demolished by the respondents. In such circumstances, the petitioner, who claims to be a devotee of the said temple, has given a representation dated 23.03.2019 to the respondents to forbear them from demolishing the said temple for the purpose of extending the railway line. Since the petitioner's representation has not been considered till date, he has filed this writ petition.

3. Heard Mr.J.David Ganesan, learned counsel appearing for the petitioner, Mr.S.Manohar, learned Standing Counsel appearing for the respondents 1 to 3, Mr.M.Linga Durai, learned Special Government Pleader appearing for the fourth respondent and Mr.Saji Bino, learned Standing Counsel appearing for the fifth respondent.

4. The learned Standing Counsel appearing for the respondents 1 to 3 would submit that the land where the petitioner claims that there is a temple belongs to the Railways. He would further submit that the petitioner has himself admitted in Paragraph No.3 of the affidavit that the land where the temple is situated belongs to the Railways. According to him, due to the pendency of this writ petition, the project for extension of the railway line has been stalled for the past more than two years. The submissions made by the learned Standing Counsel for the respondents 1 to 3 is also supported by the learned Special Government Pleader appearing for the fourth respondent as well as the learned Standing Counsel appearing for the fifth respondent. The petitioner has been having the benefit of the interim order since 2019. No prejudice would be caused to the respondents, if the petitioner's representation dated 23.03.2019 seeking to forbear the respondents from demolishing the temple is considered on merits and in accordance with law within a time frame to be fixed by this Court.

5. Accordingly, this Court directs the third respondent to consider the petitioner's representation dated 23.03.2019 requesting the respondents to forbear them from demolishing Varatha Vinayakar Temple situated at Keelarathaveethi (Second Gate) adjacent to Thoothukudi-Melur Railway Station and pass final orders on merits and in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order after affording a fair



hearing to the petitioner. It is made clear that once if the third respondent comes to the conclusion that the petitioner is not entitled for any protection, the respondents are permitted to demolish the said temple.

6. With the above directions, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

tsg

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

- 1.The Divisional Railway Manager,
Southern Railway, Madurai Division,
Madurai.
- 2.The Station Master,
Thoothukudi Melur Railway Station,
Thoothukudi District.
- 3.The Estate Officer (Southern Railway),
Divisional Office, Works Branch,
Madurai.
- 4.The District Collector,
Thoothukudi District,
Thoothukudi.
- 5.The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

W.P. [MD]No.9545 of 2019

21.02.2022