



W.P(MD)No.13986 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

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V.Ganesan

... Petitioner

VS.

- 1.The District Collector,
Thoothukudi District.
- 2.The District Revenue Officer,
Thoothukudi District.
- 3.The Revenue Divisional Officer,
Kovilpatti Division,
Thoothukudi District.
- 4.The Tahsildar,
Vilathikulam Taluk,
Thoothukudi District.
- 5.The Tahsildar,
Ettaiyapuram Taluk,
Thoothukudi District.
- 6.The Assistant Director of Survey,
Thoothukudi District.



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7.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nunkampakkam, Chennai.

8.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi District.

9.The Executive Officer,
Arulmighu Meenakshi Sundareswarar Thirukovil,
Vilathikulam Taluk,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to remove all the encroachment in Old Survey No.42-1A, New Survey Nos.577 to 611, 21 acre 17 cents in Vilathikulam Kaspas, Vilathikulam Taluk and Survey Nos.587, 618, 620, 655, 656, 657, 658, 659, 660, 661, 662, 663, 597, 598, 599, 600, 601, 603, 604, 607, 586-1, Patta No.368 total extent 123 acre 51 cents and Ayyanpommaiyapuram Village, Vilathikulam Taluk, Survey No.569/1, Keelavilathikulam Village, Vilathikulam Taluk, total extent 553 acre 29 cents and Survey No.458/3, 458/4, 458/7 total extent 8 cents in Naduvapatti Village, Ettaiyapuram Village based on the petitioner's representation, dated 22.04.2021.

For Petitioner : Mr.J.Gunaseelan Muthiah

For RR 1 to 6 : Mr.P.Thilak Kumar
Government Pleader

For RR 7 & 8 : Mr.P.Subbaraj
Special Government Pleader

For R – 9 : Mr.M.Muthu Geethaiyan



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ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer in this Writ Petition is for issuance of a Writ of Mandamus, directing the respondents to remove all the encroachment in Old Survey No.42-1A, New Survey Nos.577 to 611, 21 acre 17 cents in Vilathikulam Kaspā, Vilathikulam Taluk and Survey Nos.587, 618, 620, 655, 656, 657, 658, 659, 660, 661, 662, 663, 597, 598, 599, 600, 601, 603, 604, 607, 586-1, Patta No.368 total extent 123 acre 51 cents and Ayyanpommaiyapuram Village, Vilathikulam Taluk, Survey No.569/1, Keelavilathikulam Village, Vilathikulam Taluk, total extent 553 acre 29 cents and Survey No.458/3, 458/4, 458/7 total extent 8 cents in Naduvapatti Village, Ettaiyapuram Village based on the petitioner's representation, dated 22.04.2021.

2. Seeking removal of the encroachments in the properties in the aforesaid survey numbers belonged to the ninth respondent/Temple, the petitioner made a representation, dated 22.04.2021 to the official respondents. However, till date, the same has not been considered. Hence, this Writ Petition.



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3.The learned Government Pleader appearing for the respondents 1 to 6 submitted that the petitioner's representation dated 22.04.2021 would be considered and appropriate action will be taken in accordance with law.

4.The learned counsel appearing for the ninth respondent submitted that though the ninth respondent has addressed a letter dated 21.09.2022 to the fourth respondent seeking to cancel the patta given to a private party in respect of the lands comprised in old Survey No.42/1, to an extent of 21 acre 17 cents which belongs to Arulmighu Meenakshi Sundareswarar Temple, Vilathikulam and to issue patta in respect of the said survey number in the name of the ninth respondent / Temple, till date no action is taken.

5.The learned counsel appearing for the ninth respondent further submitted that regarding the protection and maintenance of the Temple properties, this Court in *Suo Motu* W.P.No.574 of 2015, dated 07.06.2021, has issued a specific direction to the authorities to remove the encroachments in the Temples' lands, which reads as follows:-



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"(34) Insofar as Service inams as per the customary practice is concerned, only one property shall be given to an individual during his/her tenure of service and after his/her retirement or disassociation with the temple, the same shall be recovered. Wherever more than one property has been given as inam, the same shall be recovered and given to some other deserving service providers. In case, the land/property is under the occupation of any third party, steps must be taken to evict them forthwith.

(35) The encroachment and illegal constructions in the protected area, archaeological sites, temple lands, etc., must immediately be removed. The extent of lands owned by the temples must be identified with the help of the revenue Department by the District Level Committee. The District Collector of the appropriate District, on the request of the Heritage Commission or State Committee or District Level Committees or by any officer of the HR&CE Department, shall forthwith take steps for the removal of any such illegal construction or encroachment or unauthorised occupants. Appropriate action must be taken against the errant Government officials of the central as well as state department and officers under the HR&CE department for not removing the encroachments in the protected and regulated area, within a period of eight (8) weeks on expiry of the time given."



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Despite the aforesaid directions, till date, many properties of various Temples encroached upon by third parties are not retrieved and handed over to the respective Temples.

6.In view of the above, we direct the respondents 1, 3, 5 and 8 to take necessary action for removal of encroachments in the place in question, after issuing notice and conducting survey in the presence of the petitioner and all other parties and thereafter, retrieve the lands belonging to the ninth respondent / Temple as per the directives issued by this Court in *Suo Motu* W.P.No.574 of 2015, dated 07.06.2021, after providing sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

7.With the above directions, this Writ Petition is disposed of. No costs.

Index : Yes / No
Internet : Yes
ps

[R.M.D.,J.] [J.S.N.P.,J.]
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R.MAHADEVAN,J.
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J.SATHYA NARAYANA PRASAD,J.

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ORDER MADE IN
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