



W.P.(MD)No.19586 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.19586 of 2022
and
W.M.P(MD)No.14298 of 2022

Durairaj

... Petitioner

Vs.

- 1.The District Collector,
Dindigul,
Dindigul District.
- 2.The Tahsildar,
Nilkkottai Taluk Office,
Nilkkottai,
Dindigul District.
- 3.The Block Development Officer,
Ammayanayackanur Panchayath,
Nilakkottai Taluk,
Dindigul District.
- 4.The Executive Officer,
Ammayanayackanur Panchayath,
Dindigul District.
- 5.Rajaraja Cholan

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice dated 17.08.2022 in Na.Ka.No.226/2022/A2 issued by the 4th respondent and quash the same as illegal and consequently directing the 1st and 2nd respondents to issue Patta in favour of petitioner temple namely Arulmighu Sri Sonaiswamy, Sri Karuppanaswamy, Sri Veerakaliyamman, Sri Seelakariamman Temple in S.No.653/1, Oruthattu Village, Ammayanayakanur Panchayath Union, Nilakkottai Taluk, Dindigul District based on petitioner's application, dated 04.03.2021.

For Petitioner : Mr.R.Suriyanarayanan

For R-1 to R-3 : MrJ.Ahok,
Additional Government Pleader

* * *

ORDER

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

Challenging the impugned notice, dated 17.08.2022, issued by the Executive Officer of Ammayanayackanur Panchayat, Dindigul District, the above writ petition is filed.

2. Heard Mr.R.Suriyanarayanan, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader, who takes notice for respondents 1 to 3.



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3. By the impugned notice, the fourth respondent has directed the petitioner to remove the encroachment by putting up a temple, within seven days from the date of receipt of notice. It is stated in the impugned notice that the temple known as Sonai Kovil is constructed in Survey No.653/1, which is classified as a Cart Track.

4. It is the case of the petitioner that the temple was constructed about 100 years back and that, it is not in a Cart Track as it was alleged. The petitioner has not produced any patta or document of title showing independent title of the temple or anyone.

5. In such circumstances, this Court is not inclined to go into any disputed questions of fact. It is seen from the impugned notice that the petitioner was not given any opportunity before passing an order directing removal of temple in Survey No.653/1. Even under the District Municipalities Act, which is applicable to Town panchayats, a show-cause notice is contemplated as provided under Section 182 of the District Municipalities Act.

6. Having regard to the facts and circumstances of the case, this Court is inclined to dispose of the writ petition in the following lines:



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(i) The impugned notice, dated 17.08.2022, shall be treated as a show-cause notice as contemplated under Section 182 of the District Municipalities Act.

(ii) After considering the objections or representation of the petitioner, which shall be submitted within a period of two weeks from the date of receipt of a copy of this order, the respondents may pass appropriate orders on merits.

(iii) It is open to the petitioner to establish his or temple's right by approaching the civil Court.

With the above direction, the writ petition is disposed of. No Costs.
Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
24.08.2022

Index : Yes / No

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