



W.P.(MD) No.22671 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.22671 of 2022

and

W.M.P.(MD)Nos.16828 to 16830 of 2022

S.Alagu Perumalsamy

... Petitioner

-Vs-

1.The District Collector,

Office of the District Collector,

Thoothukudi District.

2.The Tahsildar,

Srivaikundam Taluk,

Thoothukudi District.

3.The Block Development Officer (Village Panchayat),

Karungulam Panchayat Union,

Srivaikundam Taluk, Thoothukudi District.

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4.The President,
Alandha Village Panchayat,
Karungulam Panchayat Union,
Srivaikundam Taluk, Thoothukudi District.

5.U.Ganesan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 4th respondent dated 21.09.2022 and quash the same as illegal and unconstitutional and consequently, forbearing the respondents from in any manner interfering with the religious activities of the above said Arulmigu Sri Murugan Tharumapathi Tharma Trust Temple situated in S.No.591/2 of Savalaperi, Alantha Village, Srivaikundam Taluk, Thoothukudi District.

For Petitioner : Mr.RJ.Karthick

For R1 to R3 : Mr.S.P.Maharajan,
Special Government Pleader.

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ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The order of the 4th respondent dated 21.09.2022, for removal of the encroachment made in S.No.591/2, Savalaperi, Alantha Village, Srivaikundam Taluk, Thoothukudi District, is under challenge in this Writ Petition.

2.Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the respondents 1 to 3. Since no adverse order is going to be passed as against the respondents 4 and 5, notice to them is dispensed with.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.The petitioner claims that the land in question has been classified as Ryotwari land, where the villagers had constructed a temple 21 years ago and to administer the affairs of the said temple, a Trust in the name of Arulmigu Sri

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Murugan Tharumapathi Tharma Trust was formed. The said Trust has also been registered vide Registration No.233 of 2011, dated 16.06.2011. From the inception of the temple, the villagers have been conducting festivals and also paying the property tax as well as electricity consumption charges of the temple without fail. In the meantime, the 5th respondent has given a complaint to the respondents 2 and 3, alleging that the temple has been constructed encroaching the Government Poromboke pathway in S.No.592. The grievance of the petitioner is that without surveying the land, the 4th respondent has issued the present impugned order.

5.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 3. Considering the nature of the order proposed to be passed, notice to the respondents 4 and 5 is dispensed with.

6.When the 5th respondent alleges encroachment in S.No.592, the impugned order reveals encroachment in S.No.591/2 and thereafter, this Court posed a question as to which survey number has been encroached, for which, the



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learned Special Government Pleader in all fairness with due instructions, submitted that there is an error committed by the authority while mentioning the correct survey number in the impugned order. He also submitted that necessary order would be issued afresh.

7.Recording the abovesaid submission, the impugned order of the 4th respondent dated 21.09.2022 is set aside and this Writ Petition is allowed, leaving it open to the authorities concerned to proceed afresh in the manner known to law, if there are any encroachments as projected. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] & [J.S.N.P., J.]

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Index : Yes / No

Internet : Yes / No

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2.The Tahsildar,
Srivaikundam Taluk,
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