



W.P.(MD) No.26690 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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Sri Meenakshi Sundareswarar Nagara Sivan Kovil,
A.Thekkur, Rep. by its Trustee,
Thanikachalam,
S/o.AL.Arunachalam,
A.Thekkur – 630 201,
Sivagangai District.

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai.
- 2.The District Revenue Officer,
Sivagangai.
- 3.The Thasildar,
Tirupattur,
Sivagangai District.



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4.The President,
A.Thekkur Village Panchayat,
Tiruppatur Union,
Sivagangai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to evict the entire encroachments made in S.No.212/16, 218 of A.Thekkur Village, Tirupattur Taluk, Sivagangai District within time stipulated by this Honble Court with due police force and consequently restore the name of Sri Meenakshi Sundareswarar Nagara Sivan Kovil in Revenue Records in respect of S.No.212/16 of A.Thekkur Village, Tirupattur Taluk, Sivagangai District.

For Petitioner : Mr.RM.Arun Swaminathan
For Respondents : Mr.M.Sarangan,
Addl. Government Pleader for R1 to R3
: Mr.R.Anandaraj for Encroacher

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to evict the entire encroachments made in S.Nos.



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212/16, 218 of A.Thekkur Village, Tirupattur Taluk, Sivagangai District, within a time frame with due police force and consequently restore the name of Sri Meenakshi Sundareswarar Nagara Sivan Kovil in Revenue Records in respect of S.No.212/16 of A.Thekkur Village, Tirupattur Taluk, Sivagangai District.

2. It is the case of the petitioner that the subject property was purchased by his community ancestors in 19th century and built a Sivan temple in the said survey number. The petitioner's predecessor has filed a suit for declaration and bare injunction against the respondents 1 to 3 herein in O.S.No.101 of 2000. The same was decreed by the Civil Court on 19.09.2006. According to the petitioner, the property in Survey No.212/16 is classified as Sivankovil promabokey and the Survey No.218 is classified as Oorani, which belongs to the temple and there are several encroachments. Hence, the respondents issued notices under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the same was challenged by the encroachers before this Court in W.P.No.59 of 2004. This Court by order dated 25.03.2008, dismissed the said writ petition with liberty to the encroachers, to work out their remedy in the manner known to law either by



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claiming possessory title or by seeking alternate sites by approaching the concerned authorities. Thereafter, the petitioner made a representation on 22.08.2022 to the first respondent seeking for removal of the encroachment in the aforesaid survey numbers. However, till date, the respondents have not taken any action for removal of the aforesaid encroachments. Hence, the petitioner has filed this Writ Petition.

3. Mr.R.Anandaraj, learned counsel appearing on behalf of the encroachers, though he has not filed any impleading applications, submitted that they are in continuous possession and enjoyment of the property in question and he has disputed the classification of the property and according to him, the encroachers have filed a suit and the same is pending.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as per the 'A' Register, the property in S.No.218 has been classified as Government Poramboke Oorani i.e., water body and in respect of the encroachment on the same, the respondents have already



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WEB initiated proceedings for removal of the encroachment in the aforesaid survey number. He further submitted that there are no encroachment in S.No.212/16 as projected by the petitioner and with regard to removal of encroachment in S.No. 218 is concerned, necessary action will be taken to remove the encroachment by due process of law.

5. Considering the facts and circumstances of the case and also considering the fact that this Court, in a catena of decisions, has held that encroachment on the water body is liable to be removed, we direct the respondents to remove the encroachment in S.No.218 i.e., water body, after affording sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. Insofar as the second limb of the prayer for restoring the name of Sri Meenakshi Sundareswarar Nagara Sivan Kovil in revenue records in respect of S.No.212/16 is concerned, we are not inclined to express any view or opinion and it is for the third respondent to take appropriate decision on the same.



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[D.K.K., J.] [R.V., J.]

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Index : Yes / No
Internet : Yes / No
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