



W.P.(MD)No.26758 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2022

CORAM

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

W.P(MD)No.26758 of 2022

K.Pattan

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.

3.The President,
Sernthamaram Kaspas Panchayat Union,
Kadayanallur Taluk,
Tenkasi - 627 862.

4.Velsamy

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the land comprised in S.No.1011 and 1039/6, situated at Veerasigamani, Nochikulam Village, Kadayanallur Taluk, Tenkasi District, in accordance with law by considering the Petitioner's representation dated 22.08.2022 and consequently to save the pathway to perform funeral rites by taking appropriate action.



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For Petitioner

: Mr.T.Kanagaraj

For Respondents 1 & 2

: Mr.S.P.Maharajan

Special Government Pleader

* * *

ORDER

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

The petitioner has come forward with this writ petition praying to issue a writ of mandamus, directing the respondents 1 to 3 to remove the encroachment made by the 4th respondent in the land comprised in S.Nos.1011 and 1039/6, situated at Veerasigamani, Nochikulam Village, Kadayanallur Taluk, Tenkasi District, in accordance with law by considering his representation dated 22.08.2022, and consequently to save the pathway to perform funeral rites by taking appropriate action.

2. Heard Mr.T.Kanagaraj, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 & 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the respondents 3 and 4 is dispensed with.



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4. Alleging that the 4th respondent has made encroachment in the pathway, situated in S.Nos.1011 and 1039/6, situated at Veerasigamani, Nochikulam Village, Kadayanallur Taluk, Tenkasi District, which was gifted by one Muniyandi in favour of Arulmighu Pattamudaiyar Sastha Karuppasamy Temple, by constructing a toilet and cowshed and using it as a parking place and thereby preventing the petitioner's community people to do funeral ceremony in the said pathway, one Ganesan, the Trustee of the temple submitted a representation to the 1st respondent on 24.10.2016, and the petitioner submitted a representation to the 1st respondent on 22.08.2022, and the same according to the learned counsel for the petitioner, remain as such. Hence, the Writ Petition.

5. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, he would be satisfied, if a direction is issued to the 1st respondent to dispose of their representations dated 24.10.2016 and 22.08.2022, within a time frame.

6. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the



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merits of the claim made by the petitioner, either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the 1st respondent to consider the representations of the Trustee of the Temple dated 24.10.2016 and the petitioner dated 22.08.2022, in the light of the gift dated 31.05.2004 registered as document No. 738/2004, on the file of the Sub Registrar, Veerasigamani, and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the presence of the petitioner, the 4th respondent and any other parties, the authorities shall take necessary action for removal of the encroachment, after affording an opportunity of hearing to all the parties and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
28.11.2022

Internet : Yes / No
Index : Yes / No
sj



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To

WEB COPY

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.



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R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

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