



W.P(MD)No.27364 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

CORAM:

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

**W.P(MD)No.27364 of 2022
and
W.M.P(MD)Nos.21463, 21465 & 21468 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.

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

5.U.Ganesan

... Respondents



W.P(MD)No.27364 of 2022

WEB PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fourth respondent dated 28.11.2022 and quash the same as illegal and unconstitutional and consequently forbearing the respondents from in any manner interfering with the religious activities of the abovesaid Arulmighu Sri Murugan Tharumpathi Tharma Trust Temple situated in Survey No.592 of Savalaperi, Alantha Village, Srivaikundam Taluk, Thoothukudi District.

For Petitioner : Mr.G.Thalaimutharasu

For RR 1 & 2 : Mr.S.P.Maharajan
Special Government Pleader

For RR 3 & 4 : Mr.V.Nirmal Kumar
Government Advocate

ORDER

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

The petitioner has filed the Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned eviction notice issued by the fourth respondent dated 28.11.2022 and consequently forbearing the respondents from in any manner interfering with the religious activities of Arulmighu Sri Murugan Tharumpathi Tharma Trust Temple situated in Survey No.592 of Savalaperi, Alantha Village, Srivaikundam Taluk, Thoothukudi District.



W.P(MD)No.27364 of 2022

WEB COPY

2.For the very same relief, earlier, the petitioner filed a Writ Petition in W.P(MD)No.22617 of 2022, dated 27.09.2022 and this Court passed the following order:-

"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 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."

3.The learned counsel appearing for the petitioner submitted that despite the abovesaid order the authorities, without issuing any show-cause notice to the petitioner or providing opportunity, are proceeding



W.P(MD)No.27364 of 2022

with removal of encroachment by issuing the impugned eviction notice and therefore, the same is liable to be set aside on the ground of violation of principles of natural justice.

4.Heard the learned counsel appearing for the respondents.

5.Time and again, this Court issues directions to the authorities concerned to proceed with the removal of encroachment, only after issuing show-cause notices to the persons concerned followed by opportunity of personal hearing, such directions invariably in all the cases have been violated by the authorities. The instant case is one of such case.

6.In view of the above, the impugned notice, dated 28.11.2022 issued by the fourth respondent is set aside and the matter is remanded back to the fourth respondent. The fourth respondent is directed to follow due process of law by issuing show cause notice to the petitioner and others and after considering their objections, shall take necessary action for removal of encroachment in the place in question, if any. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.



W.P(MD)No.27364 of 2022

WEB COPY

7.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[R.M.D.,J.] [J.S.N.P.,J.]
02.12.2022

Index : Yes / No
Internet : Yes
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To

- 1.The District Collector,
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5/6



WEB COPY



W.P(MD)No.27364 of 2022

R.MAHADEVAN,J.
and
J.SATHYA NARAYANA PRASAD,J.

ps

ORDER MADE IN
W.P(MD)No.27364 of 2022

DATED : 02.12.2022