



W.P.(MD) No.28490 of 2022

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 20.12.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.28490 of 2022**

**and**

**W.M.P.(MD)Nos.22495 and 22496 of 2022**

S.Marimuthu Samy

... Petitioner

**-Vs-**

- 1.The District Collector,  
Thoothukudi District, Thoothukudi.
- 2.The Superintendent of Police,  
Thoothukudi, Thoothukudi District.
- 3.The Deputy Superintendent of Police,  
Vilathikulam, Thoothukudi District.

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- 4.The Revenue Divisional Officer,  
Kovilpatti, Thoothukudi District.
- 5.The Tahsildar,  
Vilathikulam, Thoothukudi District.
- 6.The Inspector of Police,  
Soorakkudi Police Station,  
Thoothukudi District.
- 7.The Village Administrative Officer,  
Vembar Village, Thoothukudi District.
- 8.The President,  
Vembar Village, Thoothukudi District.
- 9.Sri Pathrakaliamman Kovil of  
Hindu Nadar Uravinmurai,  
Represented through President,  
Vembar-Subramaniapuram,  
Vilathikulam Taluk, Tuticorin District.



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10.The Church of South India,  
Thoothukudi-Narareth Diocese,  
Represented through its Secretary,  
Vembar, Tuticorin District.

11.The Correspondent,  
TDTA Primary School,  
Vembar, Vilathikulam Taluk,  
Tuticorin District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 8 herein to ensure that the Public pathway to access TDTA Primary School, St.Thomair Church and Karuppasamy Temple in S.No.328/14 situated at Vembar Village, Vilathikulam Taluk, Thoothukudi District is free to access for the petitioner as well as the general public by considering the representation dated 09.12.2022 given by the writ petitioner.

|                 |                              |
|-----------------|------------------------------|
| For Petitioner  | : Mr.T.Mohan,                |
|                 | For Mr.S.Vishnuvardhan       |
| For R1, R4, R5, | : Mr.P.Thilak Kumar,         |
| R7 & R8         | Government Pleader           |
| For R2, R3 & R6 | : Mr.A.Thiruvadikumar,       |
|                 | Additional Public Prosecutor |

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**ORDER**

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

This Writ Petition is filed, seeking issuance of a Writ of Mandamus, to direct the respondents 1 to 8 to ensure that the Public pathway to access TDTA Primary School, St.Thomair Church and Karuppasamy Temple in S.No.328/14 situated at Vembar Village, Vilathikulam Taluk, Thoothukudi District is free to access for the petitioner as well as the general public, by considering the petitioner's representation dated 09.12.2022.

2.Mr.P.Thilak Kumar, learned Government Pleader takes notice for the respondents 1, 4, 5, 7 and 8, and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor takes notice for the respondents 2, 3 and 6. Considering the nature of order proposed to be passed in this Writ Petition, notice to the respondents 9 to 11 is dispensed with.

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

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4. According to the petitioner, the land in question is classified as Government Natham, which is used as pathway to reach St. Thomair Church and Karuppasamy Temple. Since there was a dispute between the representatives of the temple and the 10<sup>th</sup> respondent, the representatives of the 9<sup>th</sup> respondent filed a suit in O.S.No.55 of 1988 on the file of the learned District Munsif, Kovilpatti and the same was decreed in favour of the 10<sup>th</sup> respondent, by judgment and decree dated 17.04.1989. Challenging the same, an appeal has been filed in A.S.No.141 of 1989 on the file of the learned Subordinate Judge, Tuticorin and the same was dismissed, by judgment and decree dated 03.11.1992. Challenging the said judgment and decree, S.A.No.277 of 1993 was filed and the same was allowed in favour of the 9<sup>th</sup> respondent. Aggrieved by the same, the 10<sup>th</sup> respondent filed S.L.P.(Civil) No.13998 of 1998 before the Hon'ble Supreme Court of India and the same was also dismissed. Thereafter, the 9<sup>th</sup> respondent filed W.P.(MD)No.12226 of 2021, forbearing the police authorities from in any manner interfering with the civil rights of the 9<sup>th</sup> respondent to put up a compound wall in the property in question. The said Writ Petition was disposed



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of by an order dated 03.02.2022, based on the submissions made by the learned Additional Public Prosecutor that the police do not propose to take any action as the current paper given to them has already been closed.

5. Again yet another Writ Petition in W.P.(MD)No.24320 of 2022 has been filed by one Kasimaran, who is the President of the 9<sup>th</sup> respondent Temple, seeking police protection for erecting a compound wall around the temple properties, by considering the representation dated 12.10.2022. After hearing both the parties, the Writ Petition was allowed, by an order dated 25.11.2022, granting relief to the petitioner, namely, Kasimaran, for construction of the compound wall around the temple properties. Now, the petitioner has filed this Writ Petition with the aforesaid prayer.

6. In the two Writ Petitions referred to above, there is no mentioning of the survey number of the property, where the 9<sup>th</sup> respondent is going to construct the compound wall. Now, it is the case of the petitioner that the property in Survey No.328/14 is classified as 'Government Natham', as per the revenue



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records. Therefore, based on the order of this Court dated 25.11.2022, made in W.P.(MD)No.24320 of 2022, construction of compound wall in the property in question, is illegal.

7.The learned Government Pleader for the respondents 1, 4, 5, 7 and 8 submitted that the representation of the petitioner dated 09.12.2022 would be considered by the respondents, on merits and in accordance with law, after providing sufficient opportunity to all the parties concerned, within a period that may be stipulated by this Court.

8.In view of the above, we direct the 4<sup>th</sup> respondent to consider the representation of the petitioner dated 09.12.2022 and pass appropriate orders on its own merits and in accordance with law, after affording sufficient opportunity to all the parties concerned, as early as possible, preferably, within a period of three weeks from the date of receipt of a copy of this order.



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9. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**[D.K.K., J.] & [R.V., J.]**  
**20.12.2022**

Index : Yes / No

Internet : Yes / No

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***Note: Issue Order copy on 21.12.2022.***

To

1. The District Collector,  
Thoothukudi District, Thoothukudi.
2. The Superintendent of Police,  
Thoothukudi, Thoothukudi District.
3. The Deputy Superintendent of Police,  
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- 5.The Tahsildar,  
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**D.KRISHNAKUMAR, J.**

**AND**

**R.VIJAYAKUMAR, J.**

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**20.12.2022**

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