



WEB COPY



W.P.No.14

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2023

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.14105 of 2021

A.Radhakrishnan

... Petitioner

Vs.

- 1.The Vigilance Commissioner,
Secretariat,
Chennai – 600 009.
- 2.The Secretary to Government,
Tourism Culture & Endowments Department,
Secretariat,
Chennai – 600 009.
- 3.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat,
Chennai – 600 009.
- 4.The Secretary to Government,
Revenue Department,
Secretariat,
Chennai – 600 009.
- 5.The Secretary to Government,
Public (Law & order C) Department,



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Secretariat,
Chennai – 600 009.

6.The Secretary to Government,
Home Department,
Secretariat,
Chennai – 600 009.

7.The Commissioner of Revenue Administration,
Chepauk,
Chennai – 600 005.

8.The Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.

9.The Commissioner of Survey & Settlements,
Chepauk,
Chennai – 600 005.

10.The Archeological Commissioner,
Egmore,
Chennai – 600 008.

11.The Director of Vigilance and Anticorruption,
Alandur,
Chennai – 600 016.

12.The Director General of Police,
Dr. Radhakrishnan Salai,
Chennai – 600 004.

13.The Director of Town Panchayats,
Santhome Road,
Chennai – 600 028.

14.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,



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144, Anna Salai,
Chennai – 600 002.

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15.The Commissioner,
Hindu Religious & Charitable Endowments Department,
119, Nungambakkam High Road,
Chennai – 600 034.

16.The District Collector,
Salem.

17.The Taluk Executive Magistrate cum Tahsildar,
Omalur,
Salem District.

18.The Deputy Inspector General of Police,
Salem Range,
Salem – 636 007.

19.The Assistant Director,
District Survey Office,
Salem – 636 001.

20.The Assistant Director of Town Panchayats,
Salem – 636 001.

21.The Deputy Superintendent of Police,
Omalur,
Salem District.

22.The Deputy Superintendent of Police,
Anti Land Grabbing Special Cell,
Salem – 636 002.

23.The Superintending Engineer,



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Tamil Nadu Generation and Distribution Corporation Ltd.,
Mettur,
Salem District.

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24.The District Registrar (West),
Collectorate Campus,
Salem – 636 001.

25.The Archeological Officer,
Dharmapuri.

26.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem - 636 001.

27.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem – 636 001.

28.The Executive Officer,
Arulmigu Elameeswarar Group Temples,
Tharamangalam,
Salem District.

29.Tmt.Parvatham,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

30.Thiru.Govindan,
Ex.MLA.,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

31.Thiru.Palanisamy,
Thideer Maligai Kadai,



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Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

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32.Thiru.Tamilmani,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

33.Thiru.Thambi,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

34.Thiru.Thiruganasambandam,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

35.Kumaran Agro Center,
Rep. by its owner,
Arulmigu Elameeswarar Temple Campus,
Tharamangalam,
Salem District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 20th respondent to take appropriate action in accordance with law as against the unauthorized construction made in 28th respondent temple properties situated at S.F.Nos.171/1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 24, 34, 35 & 42 and S.F.Nos.71/3, 7, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29,



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30, 31, 32, 36, 37, 38, 39, 40, 41 and 43 situated at Tharamangalam Village, Omalur

Taluk, Salem District and thereby removing the encroachers of 29th to 35th respondents

and others by considering the joined inspection report dated 05.10.2015.

For Petitioner : Mr.R.Marudhachalamurthy

For R1 to R13, R15 to R22, : Mr.P.Gurunathan,
R24, R25 Additional Government Pleader

For R34 : Mrs.G.Sumithra

For R29, R30, R33 & R35 : Mr.V.Elangovan

For R2, R15, R26 to R28 : Mr.Yashwant
Additional Government Pleader

For R14 & R23 : Mr.I.Syed Sibghadulla
Standing Counsel

For R32 : Mr.V.M.Venkataramana

* * * * *

ORDER

[Order of the Court was made by N.MALA,J.]

This Writ Petition is filed to direct the 20th respondent to take appropriate action in accordance with law as against the unauthorized construction made in 28th respondent temple properties situated at S.F.Nos.171/1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 24, 34, 35 & 42 and S.F.Nos.71/3, 7, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29,



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30, 31, 32, 36, 37, 38, 39, 40, 41 and 43 situated at Tharamangalam Village, Omalur

Taluk, Salem District and thereby remove the encroachers viz., 29th to 35th respondents

and others by considering the joined inspection report dated 05.10.2015.

2. When the matter was taken up for hearing, it was submitted by the learned counsel for the respondent that the writ petitioner had earlier approached this Court with a similar prayer in W.P.No.19761 of 2018 and this Court passed the following order vide order dated 03.04.2019:

“6. Since the petitioner has, admittedly, not availed this alternative remedy as stated in G.O.Ms.NO.540, we dispose of this writ petition with a liberty to the petitioner to avail his alternative remedy before the appropriate Committees constituted under G.O.(Ms).No.540 Revenue [LD6(2)] Department, dated 04.12.2014 and in such event, the respondents are expected to pass orders in accordance with law. No costs.”

3. The learned counsel for the respondent submitted that the writ petitioner instead of approaching the appropriate committees constituted under G.O.(Ms).No.540 Revenue [LD6(2)] Department, dated 04.12.2014, once again approached this Court for



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the very same relief which amounts to abuse of process of Court.

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4.The learned counsel for the petitioner in reply submitted that the petitioner gave a representation to the 17th respondent on 02.12.2019, but no action was taken by the 17th respondent. The petitioner therefore submitted a representation to the 16th respondent on 15.11.2021 and as the 16th respondent also failed to act on the petitioner's representation, the petitioner was constrained to file the above writ petition and therefore there was no abuse of process of Court by the petitioner.

5.We have heard both the learned counsels and we have perused the materials placed on record.

6.The Government passed G.O.(Ms).No.540 Revenue [LD6(2)] Department, dated 04.12.2014 constituting a redressal committee for eviction of encroachment. As per the G.O. the persons seeking grievance for eviction of illegal encroachment on Government lands were to file an Original Petition at the Taluk level to the Tahsildar and the Tahsildar was to cause inspection at least at the level of Deputy Tahsildar, and decide whether the Government lands were encroached or not. The G.O. further stipulates that the written reply should be sent to the petitioner giving details of the



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action taken and that the entire process is to be completed within 60 days from the date of receipt of the petition. The G.O. further provides for an Appellate Committee at Divisional level consisting of the following officials viz., Revenue Divisional Officer, Deputy Superintendent of Police and Deputy Inspector of Survey. The Appellate Committee is empowered to admit the appeal petitions on eviction of encroachment either on the ground of failure on the part of Tahsildar to give reply within 60 days or if the petitioner was not satisfied with the reply given or on the action taken by the Tahsildar. A time limit of 30 days is prescribed for conveying the decision of the Appellate Committee to the petitioner.

7.In the present case as already stated above, the petitioner gave a representation to the Tahsildar and the District Collector, but they failed to take any action on the petitioner's representation.

8.In the light of the said facts, without going into the merits of the case we are of the view that it would suffice if a direction is issued to the 17th respondent to consider the representation of the petitioner dated 02.12.2019, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.



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9. With the aforesaid direction, the writ petition is disposed of. There shall be no order as to costs.

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J.N.B.J.,
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N.M.J.,

Index : yes/no
Internet : yes/no
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To

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Chennai – 600 009.
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Tourism Culture & Endowments Department,
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Public (Law & order C) Department,
Secretariat,

10/15



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J.NISHA BANU, J.
&
N.MALA, J.

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