



WP No. 23805 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 14.02.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R. MAHADEVAN**  
and  
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Petition No. 23805 of 2018  
and  
WMP. No. 27749 of 2018

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1. Mrs. N. Sudha  
2. R.G. Gopinath

.. Petitioners

Versus

1. The District Collector  
Vandavasi Salai, Kanchipuram  
Tamil Nadu
2. Member Secretary  
No.1, Thalaimuthu Natarajan Building  
Construction Wing CMDA  
Tower II, 9th Floor, Gandhi Irwin Road  
Egmore, Chennai - 600 008.
3. The Tasildhar  
near B.D.O Office  
Tiruporur, Kanchipuram  
Tamil Nadu - 631 501
4. The Block Development Officer,  
Tiruporur, Kanchipuram - 531 501.
5. Padmanaban
6. R. Seshalchalam



WP No. 23805 of 2018

7. Sri Pappachi Amman Aalayam  
Managed and Administered by  
Padmanaban and R. Seshalchalam,  
Anna Street, Vandalur, Chennai - 48.

8. The Commissioner,  
Kattankuathur Panchayat Union  
Kattankulathur - 603 203.

(R8 impleaded vide order dated 19.12.2018

made in WMP.No.39342/2018 in WP.No.23805/2018

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to take immediate and appropriate action to remove the illegal encroachment and unauthorized construction put up by the respondents 5 to 7 at the western end of Anna Street, Vandalur Village, Tambaram Taluk and Kanchipuram District.

For Petitioners : Mr. D. Nellaiappan

For R1, R3 & R4 : Mr. A. Selvendran  
Special Government Pleader

For R2 : Mr. Veera Suresh

For R5, 6 & 7 : Mr. A. Ganesh

For R8 : Mr. B. Senthil Kumar

### **ORDER**

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

This writ petition has been filed by the petitioners seeking a direction to the respondents 1 to 4 to take immediate and appropriate action to remove the illegal encroachment and unauthorized construction put up by the respondents 5 to 7 at the western end of Anna Street, Vandalur Village Tambaram Taluk and Kanchipuram District.



WP No. 23805 of 2018

2. According to the petitioners, they are the owners of the vacant house site bearing plot No.19A (being the northern portion of Plot No.19) measuring 1294 sq.ft. in Anna Street, in the layout known as "Pattiamman Nagar, comprised in S. No. 113/1, as per patta 1270 New S.No. 113/1A1 of part of No.2 Vandallur Village, having purchased the same by a sale deed dated 07.11.2013 registered as Document No.15098/2013 in the office of the Sub Registrar, Guduvancherry. After such purchase, the petitioners have also mutated the revenue records and obtained patta No.7816 with new Survey No.113/20. The grievance of the petitioners is that the respondents 5 & 6 encroached the middle portion of the road and put up unauthorized construction which had affected their right to free ingress and egress. It is stated that due to such encroachment made by the respondents 5 and 6, the access to the petitioners' land is completely blocked. Therefore, the petitioners made a representation dated 10.08.2018 to the respondents 1 to 4 requesting to remove the encroachment, but the same is kept pending without any consideration till date. Finding no other option, they have come up with this writ petition for the aforesaid relief.

3. The learned counsel appearing for the petitioners submitted that several representations have been given to the respondents 1 to 4, including the



WP No. 23805 of 2018

one submitted on 10.08.2018 requesting to remove the encroachment and unauthorized construction put up by the respondents 5 to 7, at the western end of Anna Street, Vandalur Village Tambaram Taluk and Kanchipuram District but the same are not considered till date. Therefore, the learned counsel for the petitioners prayed for issuing appropriate direction to the respondents 1 to 4 to take appropriate action for removal of the encroachment made by the respondents 5 and 6 forthwith.

4. The learned counsel appearing for the second respondent/CMDA submitted that the second respondent has not issued any planning permission for the building in question. In such event, power has been delegated to the local bodies concerned to take necessary enforcement action in cases where approval for construction has not been granted by the Chennai Metropolitan Development Authority. In respect of the building in question, the learned counsel for the second respondent submitted that the eighth respondent is the competent authority to initiate appropriate action. In fact, the representation received from the petitioners on 10.08.2018 has already been forwarded to the eighth respondent vide proceeding in EC/S-II/17310/2018 dated 26.09.2018. Therefore, the learned counsel for the second respondent prayed for issuing appropriate direction in this writ petition.



WP No. 23805 of 2018

5. The learned Special Government Pleader appearing for the respondents 1, 3 and 4 submitted that the representation dated 10.08.2018 submitted by the petitioners will be considered by the third respondent, if not already considered and an enquiry will be conducted, and appropriate orders will be passed within a time frame to be stipulated by this Court.

6. The learned counsel appearing for the contesting sixth respondent submitted that the Pappachi Amman temple is a deity naturally formed (*Suyambu*) under a *puri tree* grown amidst the forest situated in Vandalur some hundred years ago. This deity is worshipped by the Villagers in large number. In fact, the devotees approached the local body and represented to lay road to reach the deity under the tree and it was conceded and a road was laid providing access to reach the deity. While so, during the year 2015, due to heavy rain and cyclone, the *puri tree* fell down. Therefore, the Villagers in consultations with Hindu saints and priests decided to install an idol of goddess Pappachi Amman resembling the *Suyambu Pappachi Amman* at the place where it originally existed. Accordingly, the deity was erected and a construction was put up in the interest of religious sentiments of all the devotees. The petitioners, who claim to have purchased the land adjacent to the temple in the year 2013, may not be aware of the background facts of the



WP No. 23805 of 2018

temple that is in existence for several decades, but they allege that their land has been encroached upon by the respondents 5 and 6. However, the land owned by the petitioners has not been encroached by the respondents 5 and 6, as alleged. The respondents 5 and 6 are the care takers of the Goddess Pappachi Amman along with the Villagers. The construction has been made to install the deity *Pappachi Amman* in such a manner that it will not cause any disturbance to the public. Therefore, according to the learned counsel for the sixth respondent, the question of encroaching upon any public road will not arise in this case and he prayed for dismissal of the writ petition.

7. We have heard the learned counsel on either side and perused the materials placed on record.

8. On considering the above rival submissions, this Court is of the view that the disputed questions of fact raised in this writ petition cannot be examined by this Court in exercise of powers conferred under Article 226 of The Constitution of India. Therefore, this court, without going into the merits of the case, directs the third respondent to consider the petitioners' representation dated 10.08.2018, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an



WP No. 23805 of 2018

opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J]

[M.S.Q., J]

14.02.2023

Index : Yes / No

Internet : Yes / No

av/rsh

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WP No. 23805 of 2018

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WP No.23805 of 2018

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