



WP No.2661 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.02.2023

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
and
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.2661 of 2018

R. Mariappan

.. Petitioner

Versus

1. The District Collector cum District Magistrate
Salem District.
2. The Revenue Divisional Officer,
Ammamet, Salem District.
3. The Tahsildhar,
Salem Taluk
Salem District.
4. The Commissioner,
Salem Corporation,
Salem – 636 001.
5. The Commissioner of Police,
Salem City,
Salem – 636 001.
6. The Inspector of Police,
Ammamet Police Station,
Salem – 636 003.



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7.Chinnadurai

8.Periyasamy

.. Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 6 to remove the encroachment made by the Respondents 7 and 8 in making construction of Sakthi Kaliyamman Thirukoil in Kunjan Street, Salem and further to take action against the Respondents 7 and 8 for construction of above said koil by encroaching public street.

(prayer amended as per order dated 19.02.2016 by MVJ & SVNJ in W.M.P.No.3976 of 2018 in W.P.No.2661 of 2018)

For Petitioner : Mr. P. Elayarajkumar
for M/s. Ramalingam Associates.

For Respondents : Mr. A. Selvendran
Special GovernmentPleader for R1, 2, 3, 5 & 6.

Mr. C. Veeraraghavan for R7 & R8.

ORDER

[Order of the Court was made by **R. MAHADEVAN, J**]

The petitioner has filed this writ petition praying to issue a Writ of Mandamus directing the respondents 1 to 6 to remove the encroachment made by the Respondents 7 and 8 by constructing a temple - Sakthi Kaliyamman Thirukoil in Kunjan Street, Salem in a public street without obtaining any permission thereof and to take action against them



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2. In the affidavit filed in support of the writ petition, it is stated by the petitioner that he is a resident of Kunjan Street, Salem. According to the petitioner, the width of Kunjan Street in Ammapet Town, is about 20 feet breadth which is primarily used by heavy vehicles such as milk van, corporation lorry, school bus etc., to gain access to the various parts of Salem Town. While so, the seventh and eighth respondents, without obtaining any permission or order from the local authority, constructed a temple on 05.01.2018 by encroaching the public street measuring 6 feet breadth and 8 feet length. The petitioner therefore submitted representations dated 08.01.2018 and 22.01.2018 to the respondents 1 to 6, to remove the encroachment made by the respondents 7 and 8 in the public street by constructing the aforesaid temple. Finding no response on the same, he has come up with this Writ Petition for the aforesaid relief.

3. The learned counsel for the petitioner reiterated the averments in the affidavit filed in support of the writ petition and submitted that the respondents 7 and 8 have constructed a temple in the public road which is causing hindrance to vehicle users as well as general public to use the



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thoroughfare. The learned counsel for the petitioner also invited our attention to the photographs enclosed in the typed set of papers and submitted that inspite of the representations, the respondents 1 to 6 are not taking any steps to remove the encroachment and prayed for issuing appropriate direction in this regard.

4. On the above contention, we have heard the learned Special Government Pleader for the respondents 1 to 6 as well as the learned counsel for the seventh and eighth respondents and perused the materials placed.

5. Considering the nature of relief sought herein, this Court, without going into the merits of the case, directs the fourth respondent to consider the petitioner's representation dated 22.01.2018, if not considered earlier and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned within a period of eight (8)weeks from the date of receipt of a copy of this order. It is needless to state that if there is any encroachment, as complained by the



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petitioner herein, the same shall be removed, after following due process of

law.

6. With the above directions, this Writ Petition is disposed of . No costs.

(R.M.D.,J.) (M.S.Q.,J.)

01.02.2023

ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

Copy to

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MOHAMMED SHAFFIQ, J

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