



W.P. (MD) No. 1273 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 1273 of 2023

M.Sankar

... Petitioner

-VS-

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
119, Uthamar Gandhi Salai,
Chennai -34.
2. The District Collector,
Kanyakumari District,
At Nagercoil.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mettu Theru, Vadiweeswaram,
Nagercoil - 629 002, Kanyakumari District.
4. Velayutha Perumal
5. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Tirunelveli Region, Thiruvananthpuram Road,
Palayamkottai, Tirunelveli District.
(R5 is impleaded vide Court Order dated
21.02.2023 in W.M.P. (MD) No.3101 of 2023)

... Respondents



W.P. (MD) No. 1273 of 2023

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to remove the encroachment made in the property belongs to Arul Mighu Mutharamman Thiru Kovil, Sankaran Puthur, Kanyakumari District by considering the representation of the petitioner dated 03.01.2023 within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner : Mr. S.C.Herold Singh

For Respondents : Mr. P.Subbaraj,
Special Government Pleader
for 1 to 3 and 5
Mr. Ayiram K.Selvakumar for R4

ORDER

Heard Mr. S.C.Herold Singh, Learned Counsel for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader appearing for the First to Third and Fifth Respondents and Mr. Ayiram K.Selvakumar, Learned Counsel appearing for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Writ Petition has been filed for directing the Respondents to remove the encroachment made in the property belonging to Arulmighu Mutharamman Thirukovil, Sankaran Puthur, Kanyakumari District based on the representation dated 03.01.2023 made by the Petitioner.

3. It has been brought to notice that after the filing of the Writ Petition, the Fourth Respondent has sent a representation dated 23.02.2023 to the Third Respondent by Registered Post to initiate action for removal of encroachment of the properties of the aforesaid Temple under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959.

4. Learned Counsel for the Petitioner submits that the Petitioner would be satisfied if the representation dated 03.01.2023 made by the Petitioner and the representation dated 23.02.2023 made by the Fourth Respondent are directed to be disposed by the concerned authority within the time limit that may be fixed by the Court.

5. Having regard to the limited nature of relief sought, this Court without expressing any view on the merits of controversies involved in the matter, disposes the Writ Petition on the following terms:-



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- (i) the concerned authority shall immediately examine the representation dated 03.01.2023 made by the Petitioner and the representation dated 23.02.2023 made by the Fourth Respondent to initiate action for removal of encroachment of the properties of the aforesaid Temple under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 30.09.2023 under written acknowledgment; and
- (v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.



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In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

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Post the matter for 'reporting compliance' on 31.09.2023.

01.03.2023

PKN

NCC : Yes/No

Index: Yes/No

Note: Issue order copy by 05.07.2023.

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
119, Uthamar Gandhi Salai,
Chennai -34.
2. The District Collector,
Kanyakumari District,
At Nagercoil.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Mettu Theru, Vadiweeswaram,
Nagercoil - 629 002, Kanyakumari District.



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4. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department,
Tirunelveli Region, Thiruvananthpuram Road,
Palayamkottai, Tirunelveli District.

Copy to

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.



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P.D. AUDIKESAVALU, J.

PKN

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