



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

W.P.(MD) No.4933 of 2023

DATED : 08.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.4933 of 2023
and
W.M.P.(MD) Nos.4611 & 4612 of 2023**

M.Sakthivel

... Petitioner

-VS-

- 1.The Revenue Divisional Officer
Dindigul Division, Dindigul District
- 2.The Thasildar
Dindigul West Taluk
Dindigul District
- 3.The Block Development Officer
Reddiyar Chathiram Panchyat Union
Dindigul District

4.Ayyakalai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the record on the file of the second respondent in Na.Ka.No.463/2022/AA3, dated 22.06.2022 and quash



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the same as illegal and consequently direct the respondents not to interfere in the peaceful possession and enjoyment of the petitioner in the land in S.No. 216/1.

For Petitioner : Mr.M.Vivek Bharathi

For Respondents : Mr.P.T.Thiraviyam
Government Advocate for R1 to R3

ORDER

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

Admit.

2. Mr.P.T.Thiraviyam, learned Government Advocate, takes notice for the respondents 1 to 3.

3. Notice to the fourth respondent is deemed as unnecessary, since he has no personal interest over the property in question.

4. The order impugned in this writ petition claims that the site in question is classified as “நத்தம் காலியிடம் கோவில்”. The said description itself is self-contradictory. It could either be a temple site or a house site, it cannot be



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both. Section 2 of the Tamil Nadu Land Encroachment Act, 1905, excludes the lands occupied as house sites, popularly called as Grama Natham and the lands classified as temple sites from its applicability. This Court has time and again reiterated that the Government is not the owner of such lands, which are classified as either temple sites or house sites. Therefore, there cannot be an eviction proceedings initiated under the Tamil Nadu Land Encroachment Act, 1905, by the Government, which has no proprietary right over the land in question.

5. Hence, the writ petition stands allowed. The impugned order dated 22.06.2022, passed by the second respondent, is set aside. It is left open to the fourth respondent to take appropriate proceedings, if he wants to establish his right. No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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