



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.6251 of 2023

and

W.M.P.(MD)Nos.5942, 5944 and 5945 of 2023

Arulmigu Meinindranath Swami Kovil,  
Keeramangalam,  
represented by its Hereditary Trustee,  
R.Sakkaravarthy,  
Pudukottai District.

... Petitioner

vs.

1.The Joint Commissioner,  
Tamil Nadu Hindu Religious and Charitable  
Endowments Department,  
Thanjavur.

2.The District Collector,  
Collectorate Campus,  
Pudukottai District.

3.The Tahsildar,  
Alangudi Taluk, Pudukottai District.

4.The Executive Officer,  
Tamil Nadu Hindu Religious and Charitable  
Endowments Department,  
Aranthangi Taluk, Pudukottai District.



5.The Executive Officer,  
Keeramangalam Town Panchayat,  
Keeramangalam, Alangudi,  
Pudukottai District.

... Respondents

(R3 was *suo motu* impleaded vide order of this Court, dated 21.03.2023)

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the fourth respondent made in Na.Ka.No.165 of 2022, dated 01.03.2023 and consequently, to direct the second and fourth respondents not to allow any persons to put up any form of construction or vehicle parking in S.F.No.230/2 situated at Keeramangalam, Alangudi Taluk, Pudukottai District.

|                |                                                               |
|----------------|---------------------------------------------------------------|
| For Petitioner | :Mr.K.Baalu Sundaram<br>Senior Counsel<br>for Mr.R.Paranjothi |
| For R1         | :Mr.P.Subburaj<br>Special Government Pleader                  |
| For R2 and R3  | :Mr.J.Ashok<br>Additional Government Pleader                  |
| For R4         | :Mr.G.Mathavan                                                |
| For R5         | :Mr.M.Senthil Ayyanar<br>Government Advocate                  |

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## **ORDER**

Heard Mr.K.Baalu Sundaram, learned Senior Counsel assisted by  
Mr.R.Paranjothi, learned Counsel for the petitioner, Mr.P.Subbaraj,



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learned Special Government Pleader for the first respondent, Mr.J.Ashok, learned Additional Government Pleader for respondents 2 and 3, Mr.G.Mathavana, learned Standing Counsel for the fourth respondent and Mr.M.Senthil Ayyanar, learned Government Advocate for the fifth respondent.

2.This Writ Petition has been filed by Arulmighu Meinindranath Swami Kovil at Keeramangalam, represented by its Hereditary Trustee, R.Sakkaravarthy. The Temple is situated at Alangudi Taluk in Pudukottaia District.

3.Even before proceeding further, this Court must place its appreciation on the petitioner for pursuing and for protecting the right of the Temple so far as the land of the Temple are concerned . It is to be also noted that the petitioner had been litigating to protect the right not only before this Court, but also in a civil suit in O.S.No.25 of 1996 instituted on the file of the District Munsif Court, Aranthangi and later in A.S.No.10 of 1998 on the file of the Principal District Court at Pudukottai and finally in S.A.No.554 of 2002 on the file of this Court.



By a judgment 19.01.2022 in *S.A.No.554 of 2002 [Arulmighu*

*Meinindranath Swami Kovil at Keeramangalam, represented by*

*Parambarai Trustee vs R.Chakravarthy vs Executive Officer,*

*Keeramangalam Town Panchayat and others]* a learned Single Judge of

this Court, while adjudicating the issue relating to the property of the

Temple, had stated as follows:

*“12. The issue now arises for consideration is whether the finding of this Court with regard to the classification of Survey No. 230/2 as a Temple Tank will entitle the plaintiff to pursue the prayer for recovery of possession and mandatory injunction. The deposition of P.W.1 and the Commissioner's report and plan filed as C1 and C2 will clearly indicate that several Government offices have been constructed in Survey No.230/2 and most of the constructions are more than 30 years old when the suit was filed. The trustees of the temple have never raised any objection. That apart, the defendants have filed Exhibits B.6 to B.14 to indicate that the usufruct of the coconut trees were leased out and tender was issued by the Government authorities for removing the Karuvella trees in Survey No.230/2. These documents are of the years between 1977 to 1989. No objection has been raised by the plaintiff trustees when these auctions were carried out. That apart, so many constructions have come up in a portion of Survey No.230/2 at the instance of the Government, which are more than 30 years old. The plaintiff has not raised any objection at any point of time. The present objection from the plaintiff has emanated only after the proposal for constructing a bus stand was initiated. The documents filed on the side of the defendants will clearly establish that the proposal for construction of the bus stand was started around 17 years prior to the filing of the suit. The plaintiff has chosen to approach the Civil Court at the fag end of the completion of the construction of the bus stand. In view of the above said findings, the plaintiff shall not be entitled to a prayer for mandatory injunction for removal of the constructions, which are more than 30 years.*

*13. The Commissioner in his report and plan, which are marked as C1 and C2 has shown a green marked portion in Survey No. 230/2, which is adjacent to the suit temple. The said green marked portion is lying vacant without any construction. The defendants in*



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*para 3 of the written statement have categorically admitted that the temple tank portion is in existence in the northern portion and west of the present bus stand in Survey No.230/2. The defendants have also submitted a plan indicating the existence of various buildings along with the written statement. An Advocate Commissioner was appointed at the instance of the defendants. When the Advocate Commissioner visited, the learned counsel for the defendants has pointed out that only the low lying area is the Temple Tank. Hence, the combined reading of the written statement of the defendants and Commissioner's report will indicate that a portion of Survey No.230/2 continues to be a tank belonging to the plaintiff temple. The Hon'ble Supreme Court as well as this Court in various judgment have categorically held that the tanks have to be preserved for the future generation and any encroachment in the said water body should be removed. In the present case, the plaintiffs have approached the Civil Court after a period of 30 years when almost most of the constructions have been completed by the Government.*

*14. The First Appellate Court has erroneously reversed the judgment and decree of the trial Court granting a lesser relief in favour of the plaintiff. The First Appellate Court has misdirected itself in giving a finding that during resurvey and settlement proceedings, Survey No.230/2 have been classified as a Pond Poramboke. This finding is factually incorrect. Exhibit A.1 is an extract of the register of resurvey and settlement proceedings, which clearly indicate that Survey No.230/2 is Sivan Temple Tank. Hence, the finding of the First Appellate Court that the plaintiffs have not objected to the reclassification during settlement proceedings is not legally sustainable.*

*15. In view of the above said discussion, the substantial questions of law are answered in favour of the appellant. The judgment and decree of the First Appellate Court made in A.S.No.10 of 1998 is set aside. The judgment and decree of the trial Court made in O.S.No, 25 of 1996 on the file of the District Munsif Court, Aranthangi is restored. The Second Appeal is allowed. No costs."*

4.In effect, the judgment in the Second Appeal, which is now binding on all the parties to this Writ Petition, is that the respondents are entitled to 68 cents of lands as demarcated in the report of the Advocate



Commissioner. The respondents cannot move outside the said 68 cents of land. Their possession has to be restricted only within the said 68 cents of lands.

5. Even before proceeding further, the representation of the learned Senior Counsel that to avoid future litigation, that the said 68 cents of lands should be marked with boundary stones is also taken note of by this Court and a direction is given that the said 68 cents may be marked with boundary stones with the help of Revenue Authorities and in the presence of the petitioner herein. The petitioner may also cooperate for that and therefore, the 68 cents would be demarcated once and for all.

6. In the Writ Petition, the petitioner had sought Certiorarified Mandamus to be issued relating to the proceeding of the fourth respondent/Executive Officer, Tamil Nadu Hindu Religious and Charitable Endowments Department, Aranthangi Taluk, Pudukottai District, dated 01.03.2023 and for a consequential direction that the respondents should not be allowed to put up any form of construction or vehicle parking in S.F.No.230/2 at Keeramangalam, Alangudi Taluk,



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Pudukottai District. This particular property was the subject matter of the litigation in the Second Appeal. It had been conclusively held in the Second Appeal that the respondents are entitled to 68 cents in the said property.

7.The necessity for filing the Writ Petition arose because the respondents were attempting to put up a cycle stand adjacent to the existing bus stand. It was apprehended by the petitioner that the respondents would be putting up the cycle stand beyond the area of 68 cents. But it is made clear that they can put up the cycle stand within the area of 68 cents and should not go outside the area of 68 cents and should conform to the decree of Civil Court. That decree is binding on all the parties.

8.Before this Court, a survey was directed to be conducted by the Tahsildar, Alangudi Taluk, Pudukottai District and by the Executive Officer, HR & CE, Aranthangi in Pudukottai District. Notice was also directed to the petitioner. A survey was conducted and the area of 68 cents was clearly demarcated. It had also been stated by the learned



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Counsels for the respondents that the respondents would not go beyond the area of 68 cents. A detailed plan had also been forwarded to the Court. The said plan is also annexed as a copy to this order.

9. In the said plan, the marked portions 5 and 6 belongs to the respondent/Town Panchayat and they can utilise that particular land and not go outside the said land. That prohibition is issued as against the respondent/Town Panchayat and let both the parties respect the boundaries of their lands. I hope that this would put to an end to the litigation, which had commenced in the year 1996. The respondents may make sure that they simultaneously fix the boundary stones and after that commence construction.

10. The Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No  
Internet : Yes  
NCC : Yes/No

**23.06.2023**

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Tamil Nadu Hindu Religious and Charitable  
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**C.V.KARTHIKEYAN, J.**

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Order made in  
W.P.(MD)No.6251 of 2023

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