



W.P.(MD) No.9973 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.9973 of 2021
and
W.M.P.(MD)No.7680 of 2021**

S.Rathinam

: Petitioner

-vs-

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Sub Collector,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Srivilliputhur,
Virudhunagar District.

4.The Village Administrative Officer,
Poovani Village,
Srivilliputhur Taluk,
Virudhunagar District.

5.Mariappan

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent in Old S.No.35, New S.Nos. 462/2 and 462/53 of Atchankulam Village, Srivilliputhur Taluk and Virudhunagar District.



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For Petitioner : Mr.A.Balaji
For R1 to R4 : Mr.P.Thilakkumar
Government Pleader
For R5 : Mr.M.Kannan

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition is filed for removal of encroachment.

2. The learned counsel appearing for the petitioner states that the encroachment alleged is in the property of a temple which is under the control of HR & CE Board.

3. The learned counsel is unable to ensure whether the temple is a public or private temple. Since the petitioner's counsel states that the pooja is being conducted with the assistance of funds provided by the HR & CE Board, this Court presume that the temple is a public temple.

4. In such circumstances, it is only the Joint Commissioner who is competent to remove the encroachment. Therefore, liberty is given to the petitioner to submit a representation to the Deputy Commissioner/Joint Commissioner or the person who is in-charge of the temple so that there



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will be reference to the Deputy Commissioner/Joint Commissioner who may initiate action in terms of Sections 78 and 79 of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

5. The learned counsel appearing for the fifth respondent against whom the encroachment is alleged, states that there is no encroachment in the temple land and the fifth respondent is in possession and enjoyment of the land to which he is entitled to otherwise.

6. Since this Court is not entertaining the writ petition, it is always open to the fifth respondent to approach the official respondents to establish his independent right. This order need not be interpreted that we have accepted the case of encroachment by any one.

7. With the above observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

21.08.2023

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



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

sj1

To

- 1.The District Collector,
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