



**W.P.(MD).No.7135 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.09.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

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**and**

**M.P.(MD).No.1 of 2015**

The Executive Officer,  
A/m. Matrurai Varatheeswara  
Swami Thirukoil,  
Thiruvasi,  
Mannachanallur Taluk,  
Tiruchirapalli District.

... Petitioner

Vs.

1.The District Collector,  
Tiruchirapalli District.

2.The Tahsildar,  
Taluk Office,  
Mannachanallur,  
Tiruchirapalli District.

3.D.Mahendran

4.The President,  
Thiruvasi Panchayat,  
Mannachanallur Taluk,  
Tiruchirapalli District.



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5.The Block Development Officer,  
Thiruvasi Panchayat,  
Mannachanallur Taluk,  
Tiruchirapalli District.

... Respondents

*(R4 and R5 are impleaded vide court order dated 08.02.2023 in W.M.P.(MD).No. 2322/2023 in W.P.(MD).No.7135/2015)*

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 to inspect the property situate in Natham Survey No. 46/1 consist of 7.62.5 Ares at Thiruvasi Village, Mannachanallur Taluk, Tiruchirapalli District in consonance with the Survey Report and take necessary steps against the third respondent from putting up the intended construction abutting the eastern entrance of the petitioner temple or wall of the petitioner temple which would affect the Car festival of the petitioner temple.

For Petitioner : Mr.G.S.Asok Adhithyan

For Respondents : Mr.B.Saravanan,  
Additional Government Pleader  
For R-1 & R-2

Mr.R.Sundar  
For R-3

### **ORDER**

This Writ Petition is filed for Writ of Mandamus, to direct the respondents 1 and 2 to inspect the property and take necessary steps against the third



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respondent from putting up the intended construction abutting the eastern entrance of the temple. The contention of the petitioner is that the said construction is affecting the Car festival of the petitioner's temple and also affecting the people visiting the temple.

2. But the contention of the third respondent is that the land and the house belonging to their ancestors and the third respondent had inherited the same. Moreover, the alleged encroachment is only Asbestos Sheet in front of the shop.

3. In order to ascertain the said fact, this Court directed the Tahsildar to inspect the spot and file a report before this Court. As per the report of the Tahsildar, the petitioner had put up Asbestos Sheet covering his shop and has extended to the street. The encroachment admeasuring 9m X 2m. The allegation by the petitioner temple is that the said Asbestos Sheet is hindering the car festival. Therefore this Court is directing the 3<sup>rd</sup> respondent to remove the Asbestos Sheet as and when the temple car festival is celebrated.

4. It is seen that the petitioner is an Executive Officer of the temple. Any Executive officer cannot hold the office beyond five years. The temple ought to recognise hereditary trustee or appoint trustee. Therefore, the Joint



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Commissioner of HR & CE Department is directed either recognise the hereditary trustee, if any or to appoint trustees to the temple at the earliest.

5. After hearing the submission of the petitioner which is vehemently put forth by the Learned Counsel appearing for the petitioner, this Court is at loss, why such allegation is put forth so vehemently. The petitioner Executive Officer could have handled it by directing to remove the Asbestos Sheet as and when the car festival is conducted and amicably sorted out the issue. Moreover, the said temple is situated in a small village with population of 1840 people i.e. 488 families (as per the census 2011). Therefore the alleging that the third respondent is hindering the way to the temple is unacceptable. This Court has also perused the photo which was circulated. After seeing the photo, this Court could visualize a scene where the people would visit the temple during hot summer and would visit the nearby shop to have “pannersoda”. It is that kind of shop where the petitioner is alleging encroachment. India is having 142 crores people and everybody would not get government job. A person in a small village eking out his livelihood by running a shop, who has put up Asbestos Sheet for providing shade to the devotees who visit in hot summer is being branded as encroached. This Court is narrating the situation with pain and with the hope that wisdom would prevail upon the petitioner.



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6. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**19.09.2023**

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

To

1.The District Collector,  
Tiruchirapalli District.

2.The Tahsildar,  
Taluk Office,  
Mannachanallur,  
Tiruchirapalli District.



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**S.SRIMATHY, J.**

Sml

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