



W.P.(MD)No.21218 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

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

W.P(MD)No.21218 of 2023

Parameswari

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Chief Engineer,
State Highways Department,
Melur Main Road,
Nearby District Court,
Madurai.
- 3.The Additional Division Engineer,
Construction & Maintenance,
State Highways Department,
Melur, Madurai District.
- 4.The Commissioner,
Melur Municipality,
Melur,
Madurai District.



W.P.(MD)No.21218 of 2023

5.The Tahsildar,
Melur Taluk Office,
Melur,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment by the third respondent in Survey No.389/1A, 389/1B, 389/2A, 389/2B situated at Melur Town & Taluk, Madurai District on the basis of the representation dated 03.01.2023.

For Petitioner : Mr.S.Muniyandi

For R1 to R3 & R5 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents 1 to 3 & 5.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



W.P.(MD)No.21218 of 2023

WEB COPY

3. This writ petition is filed for removal of encroachment by the third respondent, who is the Additional Division Engineer of State Highways.

4. The case of the petitioner is that the land comprised in Survey Nos.389/1A, 389/1B, 389/2A, 389/2B situated at Melur Town & Taluk, Madurai District belongs to the temple known as Arulmigu Chithi Vinayagar Temple. He states that the Highways Department has encroached the land belonging to the temple. Hence, this writ petition is filed for removal of encroachment by the third respondent.

5. First of all, the petitioner has not indicated that whether the temple is a public temple or a private temple. If the temple is a public temple and the land belongs to the temple, the trustees of the temple can approach the Joint Commissioner, HR & CE to initiate action in terms of Sections 78 & 79 of the HR & CE Act. If it is a private temple, it is for the trustees or the person in-charge of the temple to file a suit for recovery of possession. The revenue officials cannot initiate proceedings for removal of encroachment in the property of temple.



W.P.(MD)No.21218 of 2023

WEB COPY

6. In such circumstances, this writ petition is dismissed with liberty to the petitioner to seek appropriate remedy as indicated above.

No costs.

[S.S.S.R., J.] [D.B.C., J.]
30.08.2023

Index : Yes / No
NCC : Yes/No

am



W.P.(MD)No.21218 of 2023

WEB COPY **To**

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Chief Engineer,
State Highways Department,
Melur Main Road,
Nearby District Court,
Madurai.
- 3.The Additional Division Engineer,
Construction & Maintenance,
State Highways Department,
Melur, Madurai District.
- 4.The Commissioner,
Melur Municipality,
Melur,
Madurai District.
- 5.The Tahsildar,
Melur Taluk Office,
Melur,
Madurai District.



WEB COPY



W.P.(MD)No.21218 of 2023

S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

am

W.P(MD)No.21218 of 2023

30.08.2023