



W.P.(MD)No.430 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.03.2023

CORAM

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

W.P.(MD)No.430 of 2022

and

W.M.P.(MD)No.329 of 2022

Kuttiraja @ Sangiliveerapa Balasubramania Pandian
through his Power Agent, M.Sankara Narayanan

... Petitioner

vs.

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The District Collector,
Tenkasi District, Tenkasi.

3.The Director of Town and Country Planning,
Tenkasi District, Tenkasi.

4.The Revenue Divisional Officer,
Sankarankovil, Tenkasi District.

5.The Tahsildar,
Sankarankovil Taluk,
Sankarankovil, Tenkasi District.

6.The Commissioner,
Sankarankovil Municipality,
Sankarankovil, Tenkasi District.



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7.The Local Planning Authority,
Sankarankovil Municipality,
Sankarankovil, Tenkasi District.

8.The President,
Arumuga Nainar Saiva Marapinar Mahamai Pothu Sangam,
Tenkasi District.

9.The Executive Office/Deputy Commissioner (HR & CE),
Sankaranarayana Swami Thiru Kovil,
Sankarankovil, Tenkasi District.

10.Somasundari
11.Logeshwari
12.Avudaiappapillai

13.S.Krishnan
S/o.RAmiahpillai

14.Muthusamy

15.S.Krishnan
S/o.Sokkalingapillai

16.M.Lalitha
17.Kathirvel Arumugam
18.G.Bahavathiammal
19.A.Palavesam Ammal
20.G.Murugan
21.R.Chithambaram Ammal
22.R.Veeraputhran
23.D.Shanmuga Sundhari
24.G.Sankaravel
25.G.Mariappan
26.N.Arumuganainanar
27.N.Vasanth
28.T.Muthusamy
29.G.Visalatchi



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- 30.P.Vaithalingam
- 31.S.Murugan
- 32.N.Muthukumar
- 33.S.Valli Subramaniam
- 34.Mathivadivelan
- 35.K.Gomathy Vinayagam Ammal
- 36.P.Kalyani
- 37.G.Valliammal
- 38.E.Srinivasan
- 39.D.Balasubramanian
- 40.S.Mariappan
- 41.N.Pattamuthu
- 42.T.Yozhananthan
- 43.M.Sudalaimuthu
- 44.N.Arumugathammal
- 45.R.Sankara Maghalingam
- 46.C.Ananthammal
- 47.A.Maruthavanan
- 48.N.Soorna Velammal
- 49.N.Arumuga Ammal
- 50.B.Venkatesh Perumal
- 51.P.Gomathi
- 52.N.Ganapathiya Pillai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 8 to keep the character and the entire structure of the property including the deity of Aathiyadi Vinayagar and its allied small temple along 1.60 acres in S.No.181 and 0.81 acres in S.No.182, in Sankarankovil revenue village in Sankarankovil Taluk in Tenkasi District.



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For Petitioner	:Mr.F.X.Eugene
For R1 to R5	:Mr.J.Ashok Additional Government Pleader
For R9	:Mr.M.Senthil Ayyanar Government Advocate
For R6	: No appearance
For R8	:Mr.S.Meenakshi Sundaram Senior Counsel for Mr.R.T.Arivukumar
For R10 to R52	:No appearance

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction against the respondents 1 to 8 to retain the character and the entire structure of the property including the deity of Aathiyadi Vinayagar and its allied small temple along with 1.60 acres in S.No.181 and 0.81 acres in S.No.182, in Sankarankovil revenue village in Sankarankovil Taluk in Tenkasi District.

2.Heard Mr.F.X.Eugene, learned Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for the respondents 1-5, Mr.M.Senthil Ayyanar, learned Government Advocate for the Respondent No.9 and Mr.S.Meenakshi Sundaram, learned Senior Counsel for the Respondent No.8.



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3.The petitioner had earlier filed a suit in O.S.No.422 of 1997 before the District Munsif Court at Sankarankovil against Arumuga Nainar Saiva Marapinar Mahamai Pothu Sangam, represented by its President and against one Palaniappan seeking a permanent injunction restraining the defendants therein from sub dividing the land and putting up plots, particularly, not to disturb the Pillayar Idol deity in that particular place. The subject matter of the suit lands were S.No.181 measuring 1.60 acres and S.No.182 measuring 0.81 acre in Sankarankovil Revenue Village in Sankarankovil Taluk in Tenkasi District.

4.It is thus seen that the suit had been filed with respect to the same land. The Writ Petition has been filed with respect to the same land. The suit had been filed for a permanent injunction restraining the defendants therein from sub dividing the lands into plots. The Writ Petition has been filed seeking a direction against the respondents 1-8 to prevent the Respondents 9-52 from sub dividing the very same lands into plots. The suit had been filed not to remove the Vinayagar Deity from



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the particular place and to relocate it to another place. The Writ Petition has also been filed seeking a direction not to remove the Deity of Vinayagar and relocate in another place.

5.The issues are same. There can be only one forum which can be examine the same. In the year 1997, the petitioner had chosen the District Munsif Court as a proper forum. The suit had run its course. It had been dismissed. The petitioner filed a First Appeal and the same has been dismissed. The petitioner had now filed a Second Appeal in S.A(MD)No.799 of 2011 and it is pending before this Court. It would only be appropriate that the petitioner works out his remedy in the said Second Appeal.

6.It is complained by the learned Counsel for the petitioner, Mr.F.X.Eugene, that the petitioner has been knocking the doors of all the officials and therefore, had given a representation to the 1-8 respondents to take appropriate action. But, the petitioner had actually come to the Court with the same relief and the Court had adjudicated the issues raised and had given a judgment and now the matter still pending in Second



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Appeal. It would only be appropriate that the petitioner chooses one forum to seek his grievance.

7.In view of the said reason, I hold Writ Petition is only superfluous as the petitioner can seek the same relief in the Second Appeal. I am confident that the issues raised by the petitioner herein would be addressed in manner known to law. The Writ Petition being superfluous in nature is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

23.03.2023

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C.V.KARTHIKEYAN, J.

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