



W.P. (MD) No. 14478 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

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C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 14478 of 2017
and
W.M.P. (MD) No. 11349 of 2017

S.Sudhakar Thiagarajan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Tirunelveli District.

2.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.

3.The Executive Officer,
Sankar Nagar Town Panchayat,
Sankar Nagar, Tirunelveli District.

4.Ramaiah Theva

5.K.Muthiah

... Respondents

(R5 is impleaded vide Order of this Court dated 15.12.2022 in W.M.P. (MD) No. 14605 of 2017 in W.P. (MD) No. 14478 of 2017.)



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PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus directing the Respondent Nos.1 to 3 forbearing the Respondent No.4 and his men to construct the Esakkiamman Temple and lay the idol of the Esakkiamman deity and celebrate the festival will be held on 04.08.2017 in the petitioner's Patta land in Survey No. 548/1A, Patta No. 413 in an extent of 1.94 hectare situated at Naranammalpuram Village, Thalayuthu, Tirunelveli District without getting prior approval of Rule 4 (3) of Tamil Nadu Panchayat Building Rules, 1997.

For Petitioner	: Mr. S.Rajesekar
For Respondents	: Mr. P.Subbaraj (R1 to R3)
	Special Government Pleader
	Mr. K.C.Maniyarasu (R5)
	No appearance (R4)

ORDER

Heard Mr. S.Rajesekar, Learned Counsel appearing for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader appearing for the First to Third Respondents and Mr. K.C.Maniyarasu, Learned Counsel appearing for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Writ Petition has been filed seeking for a direction to the First to Third Respondents, to forbear the Fourth Respondent and his men to construct Esakkiamman Temple and lay the idol of the Esakkiamman deity and celebrate the festival, which is to be held on 04.08.2017 in the petitioner's Patta land in Survey No. 548/1A, Patta No. 413 measuring to an extent of 1.94 hectare situated at Naranammalpuram Village, Thalayuthu, Tirunelveli District, without getting prior approval under Rule 4(3) of Tamil Nadu Panchayat Building Rules, 1997.

3. This Court, during the earlier hearing on 15.12.2022, had passed the following self-explanatory order:

“It is the case of the Petitioner that the property in Survey No. 548/1A, measuring to an extent of 1.94 Hectare, situated at Naranammalpuram Village, Thalayuthu, Tirunelveli District, belongs to him and a decree dated 22.04.1999 in O.S.No.109 of 1999 has been passed by the Principal Subordinate Court, Tirunelveli, in his favour against one Gomathinayagam in that regard, but the Fourth Respondent and his men have constructed a Temple and are celebrating festival in that property without obtaining prior approval



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from the District Collector in terms of Rule 4(3) of the Tamil Nadu Panchayat Building Rules, 1997.

2. *The Fifth Respondent, who has been impleaded by order dated 15.12.2022 in W.M.P(MD) No. 14605 of 2017, passed by this Court opposes the claim to that property made by the Petitioner highlighting that the Temple has been constructed in land belonging to the Government by villagers including himself and that the Fourth Respondent also has nothing to do in that property. It is also stated that the decree passed in the suit against the said Gomathinayagam cannot bind the Petitioner and other villagers who were not parties to that proceedings.*

3. *Having regard to the aforesaid submissions made, the First Respondent through the jurisdictional Tahsildar, after due notice to the Petitioner, the Fourth and Fifth Respondents, shall inspect the property, take measurement of the actual area in possession of the Temple with its boundaries, and submit a report along with FMB Sketch and produce the details with supporting materials in whose name the property claimed by the parties has been entered in the revenue records, before the next hearing.*

4. *Post the matter on 10.01.2023."*



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In furtherance to the said order, a detailed report has been filed by the First Respondent stating that on perusal of the records and documents submitted, the land in question belongs to the Petitioner, and that the Fourth and Fifth Respondents have not produced any supporting documents to prove their claim. It is also stated that the name of the Petitioner has been recorded in the revenue records as per DTR 320-321/2001-2022, dated 10.08.2001 issued by the Tahsildar, Tirunelveli.

4. The grievance ventilated by the Petitioner in Writ Petition is that the First Respondent ought not to grant any approval under Rule 4 (3) of Tamil Nadu Panchayat Building Rules, 1997, for construction of any temple in the said property. It is not in dispute that the Temple has already been constructed, but no permission has been granted by the District Collector for the same till date. In such circumstances, nothing remains for further consideration in the Writ Petition, but it would not preclude the Petitioner from working out his rights for retrieving his property before proper forum in the manner recognized by law.



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In the result, this Writ Petition is disposed on the aforesaid terms.

Consequently, connected Miscellaneous Petition is closed. No costs.

08.02.2023

Index : Yes/No

NCC : Yes/No

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Note:- Issue order copy by 23.02.2023.

TO:

- 1.The District Collector,
Collectorate,
Tirunelveli District.
- 2.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District.
- 3.The Executive Officer,
Sankar Nagar Town Panchayat,
Sankar Nagar, Tirunelveli District.



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P.D.AUDIKESAVALU,J.

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