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W.P.No.13021 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.13021 of 2024

N.M.Ganesan
S/o.Marimuthu

... petitioner

Vs.

1. The District Collector
O/o. of the District Collector
Erode District Collectorate Buildings
Perundurai Road
Erode - 638 011.
2. The District Revenue Officer
Erode District Collectorate Buildings
Perundurai Road
Erode - 638 011.
3. The Thasildar
Sathyamangalam Taluk
Sathyamangalam.
4. The Executive Officer
Ariappampalayam
Town Panchayat (Special Grade)

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Ariappampalayam
Erode - 638 402.

5. The Divisional Engineer
Highways
Moolapalayam
Erode.
6. The Assistant Divisional Engineer
State Highways (C & M)
Near Easwaran Koil
Sathy Road
Sathyamangalam
Erode - 638 401.
7. The Executive Engineer
State Highways (C & M)
Sathy Road
Gobichettipalayam
Erode.
8. The Superintending Engineer
TNEB Sathy Road
Gobichettipalayam
Erode.
9. The Divisional Engineer
TNEB
Sathyamangalam
Erode - 638 402.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider petitioner's representation dated 22.09.2023 and to take appropriate action



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towards the eviction of any individual(s) who were illegally encroached and building a temple without following any Government norms into the Government lands owned by the respondents 4 to 6 in the land comprised in Survey Nos.7/1 and 7/2, Thimmaianpudur Village, Erode District within the limits of Ariyappampalayam Municipality, demolish the illegal structures put up therein and recover the lands within the time.

For Petitioner : Ms.Manne Ramya
for Ms.M.Anupriya
For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

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

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed alleging encroachment in 'Government lands being S.Nos.7/1 and 7/2 in Thimmaianpudur Village, Erode District' {hereinafter 'said land' for the sake of brevity}.

2. Ms.Manne Ramya, learned counsel representing counsel on record for writ petitioner, adverting to writ affidavit, more particularly, paragraph No.7 thereat submits that said land is Highways Land and that Highways Department is bound to remove the same. It is also a case of writ petitioner

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that a representation dated 22.09.2023 has been sent and a scanned reproduction of the same as placed before this Court is as follows:

From: 22.09.2023
N.M.Ganesan,
S/o Mr.Mariamthul,
5A, Lakshmi Messica Road,
Thimmalanpudur,
Sathyamangalam, Sathy to Erode highway,
Ariyappampalayam, Erode - 638 402.

To:
The District Collector,
O/o the District Collector,
Erode District.

Sub: requesting to take necessary action against the encroachers -
who were illegally encroached and building a temple - without
following any government norms - reg.

Respected Sir/Madam,

I am permanently residing in the above given address.

I had purchased a vacant site measuring about 5445 Square Feet
comprised in New Survey No.6/1 of Ariyappampalayam Village,
Sathyamangalam Taluk, Erode District, from one Mr.Selvan through a
registered Sale Deed dated 23.11.2000. Ever since the date of purchase, I
have been in continuous and uninterrupted possession and enjoyment of
the said land. Thereafter, I have developed the said land into residential and
commercial shops. I have also mutated the revenue records in my name
with respect to the above said property.

While this was so, the vacant land which is adjacent to my property is
belong government. The said land is in between my property and the state
highway road. Under such circumstances, some of the anti-social elements
joined together and trying to grab the said government vacant land by to
construct a temple thereon without getting any appropriate permission from
the concern departments.

The aforesaid action is completely illegal and unwarranted. As stated
in detail herein above, the land in question belongs to government
exclusively, as the Registration and Revenue Records would clearly show.



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While such is the case, this sudden action of arbitrarily building a temple in the government land and effectively preventing me from dealing with my own property, that too without any notice or intimation to me.

They have not obtained appropriate clearance/permission from the state highways department as it is adjacent to the Sathy Erode Highways and not least bothered to get permission from the Hindu Religious Charitable Endowments Department and as well as from the Revenue Authorities and categorically violating the Government Order No.437 dated 13.09.2010, which clearly demonstrate that no religious based groups should encroach the government land and construct building thereon.

Under such circumstances, I request you to take necessary action against the encroachers, who were illegally encroached and building a temple in the said land without following any government norms.

Yours Faithfully,

P. M. Subramanian

Copy to:

1. The District Revenue Officer,
Erode District Collectorate Buildings,
Perundurai Road,
Erode - 638 011.
2. The Thasildar,
Sathyamangalam Taluk,
Sathyamangalam.
3. The Executive Engineer,
State Highways (C & M),
Sathy Road,
Gobichettipalayam,
Erode.
4. The Assistant Divisional Engineer,
State Highways (C & M),
Near Eeswaran Kail,
Sathy Road,
Sathyamangalam,
Erode - 638 401.



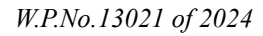
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WEB COPY 3. Issue notice to respondents.

4. Mr.C.Selvaraj, learned Additional Government Pleader accepts notice for all nine respondents.

5. Learned State counsel, adverting to proceedings dated 12.01.2024 bearing reference Na.Ka.5877/2023/A3 made by jurisdictional Tahsildar i.e., Tahsildar, Sathyamangalam, Erode District submits that said land belongs to Highways Department and it is governed by 'The Tamil Nadu Highways Act, 2001' {hereinafter 'said Act' for the sake of brevity}.

6. This Court is acutely conscious that alleged encroachers have not been made parties to WP and that they are not before this Court. However, as there would be a directive to Highways Department to act in accordance with said Act, we are of the view that adequate safety valve is put in place as the same is statutorily inbuilt. This is owing to the language in which clause (ii) of sub-section (2) of Section 28 of said Act is couched. To be



28. Prevention of encroachment.-

(2)

(i)

Provided that may representation received within the time-limit shall be considered by the authority or officer concerned before passing final orders.'

{underlining made by this Court for ease of reference}

8. Therefore, there is adequate safety valve qua opportunity to alleged encroachers.



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9. In the light of the narrative thus far and in the light of aforementioned obtaining legal position, without expressing any view or opinion on the merits of the matter, we direct respondents 5 to 7 to act on aforementioned 22.09.2023 representation strictly in accordance with said Act and more particularly, aforementioned provision of said Act which has been adverted to.

10. Aforementioned exercise shall be completed by R5 to R7 as expeditiously as the business of R5 to R7 would permit but in any event within eight weeks from today i.e., by 09.08.2024.

Captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
14.06.2024

Index : Yes / No
Speaking
Neutral Citation : Yes

mk

P.S.

Though captioned WP is disposed of, Registry is directed to list the captioned WP under the cause list caption 'FOR REPORTING COMPLIANCE' on 16.08.2024.

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

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