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W.P.No.4343 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

W.P.No.4343 of 2024

S.Sivasankar

...Petitioner

vs.

- 1.The District Collector,
Tiruppur District,
Tiruppur.
- 2.The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.
- 3.The Tahsildar,
Udumalpet Taluk,
Tiruppur District.
- 4.The Executive Officer,
Dhali Town Panchayat,
Dhali,
Tiruppur District.
- 5.The Revenue Inspector,
Kurichikottai,
Udumalpet Taluk,
Tiruppur District.
- 6.The Village Administrative Officer,
Dhali,
Udumalpet Taluk,
Tiruppur District.



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7.The Superintendent of Police,
Tiruppur,
Tiruppur District.

8.The Deputy Superintendent of Police,
Udumalpet,
Tiruppur District.

9.The Inspector of Police,
Dhali Police Station,
Udumalpet Taluk,
Tiruppur District.

10.Mr.Thangavel

11.Mr.Dhandapani

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamusto direct the respondents 1 to 9 to demolish the illegal construction in the name of Vinayagar Temple constructed by the respondents 10 and 11 as per proceedings in S.No.1198/3 to the extent of 222 sq.mt. of Dhali Village, Udumalpet Taluk, Tiruppur District based on the proceedings in Na.Ka.No.35/2020 dated 13.05.2022 on the file of the 3rd respondent and Na.Ka.No.35/2020 dated 17.02.2023 on the file of the 4th respondent and direct the respondents 1 to 9 to proceed with the construction of playground for the purpose of which it was allotted.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.A.Selvendran for R1 to R3, R5 & R6
Special Government Pleader

Mr.Yogesh Kannadasan for R4
Special Government Pleader

Mr.S.Sugendran for R7 to R9
Additional Public Prosecutor



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ORDER

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

This writ petition is filed for issuance of writ of mandamus to direct the respondents 1 to 9 to demolish the illegal construction put up by the respondents 10 and 11.

2.The case of the petitioner in brief is that in the property in S.No.24/B2B to an extent 4.33 acres situated at Dhali Village, Udumalpet Taluk, Tiruppur District, the eleventh respondent settled an extent of 222 sq.mtr. in favour of Dhali Town Panchayat for the purpose of establishing a park and playground for public usage. After resurvey, it is stated that the property was classified as playground and new survey number was assigned as S.No.1198/3 in the land which was reserved for park and playground. It is the specific case of the petitioner that the respondents 10 and 11 without any authority prevented the concerned officials from forming park and playground, they put up a Vinayagar temple in the land which was donated to the Town Panchayat in utter disregard to the provision of the Panchayat Act. After submitting representations on 24.11.2022 and on 30.11.2022 before the respondents 1 to 9 to take action to remove the encroachment by demolishing the temple, the petitioner has approached this Court.



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3.Despite the respondents 10 & 11 being served and their names is printed in the cause list, there is no representation for the private respondents.

4.Considering the allegation that the private respondents have encroached the public land which is reserved for public purpose in a layout, this Court finds that the writ petition can be disposed of on merits.

5.A counter affidavit is filed by the respondents 10 and 11. In the counter affidavit, it is stated that the entire property in Old S.No.24/B2B was subdivided into S.No.24/B2B1 and S.No.24/B2B2 and the land belong to the eleventh respondent to an extent of 5 cents was wrongly classified as a playground by the Revenue Authorities. The respondents have not produced any records to show that how the respondents to claim title to the property which is reserved for public purpose as per the layout.

6.It is seen that the Executive Officer, Panchayat has given a report earlier to the fact that a temple has been constructed in the land which is reserved for public purpose as park and playground.



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7.Considering the fact that the respondents 10 and 11 have not produced any records before this Court, their claim is not substantiated before us. However, an opportunity can also be given to the respondents 10 and 11 to establish their case. The Local Body is directed to identify the land by conducting a survey in the presence of the petitioner and other interested persons and also directed to proceed further to remove the encroachment in case the respondents 10 and 11 had put up a temple in the land originally reserved for public purpose.

8.It is made clear that the Tahsildar, Udumalpet is directed to conduct a survey and demarcate the land on the basis of Revenue Records and layout plan after issuing notice to the petitioner and official respondents as well as the respondents 10 & 11. Thereafter, if the records reveal that the respondents 10 & 11 encroached and constructed temple, the Local Body shall take action in terms of Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998.

9.The above exercise shall be completed within a period of 16 weeks from the date of receipt of a copy of this order.



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10. With the above directions, this writ petition is disposed of. No

costs.

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(S.S.S.R.,J.) (N.S.,J.)

10.07.2024

Index: yes/no

Speaking order: yes/no

Neutral Citation: yes/no

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