



W.P.No.5470 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024
CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

**W.P.No.5470 of 2021
and
M.P.No.6068 of 2021**

M.Varadhan,
S/o Munusamy

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments,
119, Uthamar Gandhi road,
Nungambakkam,
Chennai - 600 034.
2. The Joint Commissioner,
HR & CE,
697, Regional Transport Office Rod,
Nehru Nagar, Phase 2,
Sathuvachari,
Vellore - 632 009.
3. The Assistant Commissioner,
HR & CE,
No.1, Ground Floor, First Cross Street,
CV Naidu salai,
Thiruvallur - 602 001.
4. The Executive Officer,



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Arulmigu Baleeswaran temple,
Baleeswaran Kandigai Village,
Gummidipoondi Taluk,
having office at
Andal Kuppam Temple, Ponneri,
Thiruvallur District.

5. The District Collector,
Tiruvallur District,
Tiruvallur.
6. The Block Development Officer,
Kottakarai, Gummidipoondi taluk,
Thiruvallur District.
7. Srinivasan,
Son of Vadivel Reddiar.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 2 to 6 to take immediate action to remove the illegal construction made under by the supervision of the 7th respondent or his men or agents or anyone claiming under him, made in S.Number 23/3, Baleeswaran Kandigai Village, Gumidipoondi Taluk, Thiruvallur District belonging to the 4th respondent Temple.

For Petitioner : Mr.P.Srinivas

For Respondents : Mr.S.Ravichandran
Additional Government Pleader(HR&CE)
for R1, R2, R3 & R4
Mr.A.Selvendran, Special Govt. Pleader
for R5 & R6.

J U D G M E N T



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(The order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed to issue a Writ of Mandamus to direct the respondents 2 to 6 to take immediate action to remove the illegal construction made under by the supervision of the 7th respondent or his men or agents or anyone claiming under him, in S.Number 23/3, Baleeswaran Kandigai Village, Gumidipoondi Taluk, Thiruvallur District belonging to the 4th respondent Temple.

2. The case of the petitioner is that the petitioner is a devotee of Baleeswaran Temple situated in Baleeswran Kandigai. The petitioner is also cultivating the lands belonging to the temple and paying rent for the same. The temple owns several lands in the said village including the land in S.No.23/2 of Baleeswaran Kanigai Village. There were several encroachments in the lands and the same were removed by the officials before ten years back and it was free from encroachments for the past ten years. Suddenly in the month of January 2021, the 7th respondent started constructing in the said land belonging to the temple. The petitioner approached the official respondents to stop the illegal construction, but the 7th respondent is threatening the officials and because of this, the



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respondents are not taking any action. The petitioner sent representations and made complaint in the online portal to remove the encroachments, but the official respondents are not taking any action to stop the construction and to remove the same. Hence, the present writ petition with the aforesaid relief.

3. (i) Learned counsel for the petitioner would state that he is a devotee of Arulmigu Baleeswaran Temple and he is also lessee under the said Baleeswaran Temple and he is cultivating the lands in S.No.9/2, 9/5, 12/2 and 7/4, Baleewaran Kandigai Village. He further states that the lease stands in the name of his father and he is paying the lease rents to the temple regularly. The land in S.No.23/3 Baleeswaran Kandaigai is classified as Temple land and it consists of temple as well as its tank and the surrounding vacant lands. The total extent of the said lands in 1.59 hectares.

(ii) Learned counsel would further state that the said land contains the water body set out as Baleeswaran Kovil Kulam in the survey records that serves as the temple tank and is filled with water. The lands in S.No.23/3 was encroached by various persons who had occupied the



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same and put up their huts and the same were removed by the respondents about 10 years ago and the surrounding lands around the water tank are used as the pathway for the circumambulation of the temple tank by the deities of the temple during festivals such as Maha Sivaratri. The temple tank is also used for floating the lamps during the said festivals.

(iii) Learned counsel would further state that apart from the use of the temple tank, the collected rain water is stored in the same for recharging the water table in the area. The said water body is essential for the well-being of the surrounding area and the same along with its vacant lands is to be left free to ensure that there is sufficient water recharge of the ground. The said land is a kalam used for agricultural activities.

(iv) Learned counsel would further state that suddenly in the month of January 2021, he noticed that some unidentified persons started putting up building in the vacant land adjoining the temple tank. Therefore, he along with other cultivators of the temple lands informed the 4th respondent. The 4th respondent came to the spot and tried to take steps to stop the illegal activities, but the 7th respondent, the newly elected ward councillor of New Gummidipoondi Panchayat, threatened the 4th



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respondent not to interfere in the said construction. Therefore, the 4th respondent could not take further steps to stop the encroachment or to remove the constructions. Thus, he would pray that suitable directions to the officials respondents may be given to remove the illegal constructions.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for respondents 1 to 6. Though notice was served on the 7th respondent/contesting respondent, there is no representation on his behalf. No counter has also been filed by the official respondents 1 to 6.

5. Admittedly, when the petitioner noticed some unidentified persons started putting up building in the vacant land adjoining the temple tank, he along with other cultivators of the temple lands informed the same to the 4th respondent. The 4th respondent also came to the spot and tried to take steps to stop the illegal activities. According to the petitioner, the 7th respondent threatened the 4th respondent not to interfere in the said construction and thus, the 4th respondent could not



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proceed further to stop the encroachment or to remove the constructions.

6. Be that as it may, to give a quietus to the matter, we are of the opinion that the 3rd respondent shall be directed to inspect the land in question as to whether any encroachment has been made, if so, the same shall be removed after giving opportunity of hearing to both the parties.

7. Therefore, without expressing any view on the merits of the claim made by the petitioner, we direct the 3rd respondent to inspect the land in question as to whether any encroachments have been made, if so, the same shall be removed as expeditiously as possible, after giving due opportunity of hearing to the petitioner, the 7th respondent as well as the rival claimants, if any. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (P.D.B., J.)
24.04.2024

Index : Yes / No
Internet : Yes
vsi

To



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1. The Registrar General,
High Court of Madras,
Chennai - 104.
2. The Principal District Judge,
District Court, Nagapattinam

J. NISHA BANU, J.
and



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P.DHANABAL,J.

vsi

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