



W.P.No.19289 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

Coram:

THE HONOURABLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.19289 of 2024

A.Radhakrishnan

.. Petitioner

Vs.

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai-600 009.
2. The Secretary to Government,
Tourism Culture & Religious Endowments Department,
Secretariat, Chennai-600 009.
3. The Commissioner of Revenue Administration,
Chepauk, Chennai-600 005.
4. The Commissioner of Land Administration,
Chepauk, Chennai-600 005.
5. The Commissioner,
Hindu Religious & Charitable Endowments Department,
119, Nungambakkam High Road,
Chennai-600 034.
6. The Assistant Director General of Police,
Crime Branch Crime Investigation Department,
220, Pantheon Road,
Komaleeswaranpet,

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Egmore, Chennai-600 008.

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7. The District Collector, Salem.
8. The Commissioner of Police, Salem.
9. The Deputy Inspector General of Police,
Jail Superintendent Bungalow Back Side,
Salem-636 007.
10. The Deputy Superintendent of Police,
Organize Crime Unit,
Crime Branch Crime Investigation Department,
Krishna Street, Nedunchalai Nagar,
Salem-636 005.
11. The Tahsildar, Temple Lands,
Arulmigu Kottai Periyamariamman Temple Campus,
Salem-636 001.
12. The Taluk Executive Magistrate cum Tahsildar,
Kadayampatti, Salem-636 351.
13. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Arulmigu Kottai Periyamariamman Temple Campus,
Salem-636 001.
14. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Arulmigu Kottai Periyamariamman Temple Campus,
Salem-636 001.
15. The Chairman Board Trustees/Fit Person,
Arulmigu Kodhanadarama Swamy Temple,
Ayothiyapattinam,
Salem-636 103.
16. The Executive Officer,
Arulmigu Kodhandarama Swamy Temple,

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Ayothiyapattinam, Salem-636 103.

17. The Chairman Board Trustees/Fit Person,
Arulmigu Prasanna Venkattaramana Swamy Temple,
Chinnathirupathy, Salem-636 008.

18. The Executive Officer,
Arulmigu Prasanna Venkattaramana Swamy Temple,
Chinnathirupathy, Salem-636 008.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to secure and safeguard the entire properties of 16th and 18th respondent / Temples by considering the petitioner's representation, dated 07.11.2023.

For petitioner : Mr.A.Radhakrishnan, petitioner-in-person

For respondents: Mr.R.Muniyapparaj, Addl.P.P. for RR-6 and 8 to 10

Mr.T.K.Saravanan, Govt. Advocate for RR-1, 3, 4, 7, 11 and 12

Mr.N.R.R.Arun Natarajan, Spl.G.P for RR-2, 5, 13 to 18

ORDER

(The Order of the Court was made by The Honourable Acting Chief Justice)

The petitioner has filed the present Writ Petition, seeking to issue a Writ of Mandamus to direct the respondents to secure and safeguard the entire properties of 16th and 18th respondent/Temples, by considering the petitioner's representation, dated 07.11.2023.

2. The 13th respondent/Joint Commissioner, H.R. & C.E. Department,

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Arulmighu Kottai Periyamariamman Temple Campus, Salem, has filed action taken report, dated 26.08.2024, relevant portions of which are extracted below:

"Action taken report, with respect to the Arulmigu Prasanna Venkattaramana Swamy Temple:

.. ...

....

12. I humbly submit that, that the Survey No.167 admeasuring to an extent 11.51.0 Hectare (28 acre 43 cent) is situated at Chinnathirupathi, Karuvalli, Marakottai Village, Kadaiyampatti Taluk, Salem District. The said temple namely "Arulmigu Prasanna Venkatramana Swamy Temple" is situated in that land since 13th century. As per the revenue records particularly in 'A' Register it is mentioned as in column No.3 and 4 as Government Land and in column No.12 it is mentioned as Chinna Thirupathi temple. It is clear from the order of the Hon'ble High Court of Madras in WA.No.126, 129, 203, 64, 72/2022 dated 13.06.2022 and as per the Revenue Standing Order 26 and rule 13 is says that even though the lands are mentioned in column 3 and 4 as temple poramboke and mentioned in column 12 as name of the temple or as the case may be, that shall be considered only as a "Temple land".

13. I humbly submit that, Arulmigu Prasanna Venkatramana Swamy's Temple authority has taken all the necessary action to secure and safeguard the temple property as per the Hon'ble court direction of W.P.No.30072 of 2016 and W.P.No.18599 of 2017. A further action by the Revenue Authority is awaited.

14. I humbly submit that, meanwhile, the executive officer of the temple on 05.07.2024, had made a representation, to the Thasildar, Melur, to issue Patta, for the lands in S.No.167, situated in Chinna Thirupathi Village, Karuvalli, Kadayampatti Taluk, Metur Division, Salem District, in the name of Arulmighu Prasanna Venkatraman Swamy Thirukoil Chinna Thirupathi. Since, no action was taken, representation was made to the Collector, Salem. The Collector, Salem, vide his proceedings in Na.Ka.No.E-2297621/2024/E5, had directed the Thasildar, to take action, based on the representation. The same is pending.



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Action taken report, with respect to Arulmighu Kothandaramaswamy Temple:

15. I humbly submit that, Arulmighu Kothandaramaswamy Temple situated at Ayodhyapattinam, Vallapadi Taluk, Salem District, is listed temple, as per Sec.46(i) of the HR & CE Act, which comes under the control of the HR & CE Department. The said temple comes under the jurisdiction of Joint Commissioner, HR & CE, Salem. The said temple is the Sub-Temple of Arulmighu Chinnamariamman temple, situated at Chinnakadi Veethi, Salem Nagar. The Executive Officer of the Arulmighu Vennakudi Muniappasamy Temple, is been appointed as Thakkar/Fit Person of the said temple.

16. I humbly submit that, the lands in Ayodhyapattinam, Vallapadi Taluk, Salem District, which are stated below, belongs to the temple.

<i>Sl. No.</i>	<i>Survey Number</i>	<i>Extent in Hectares</i>
1	19/5	0.79.0
2	18/6	1.54.5
3	17/1	0.42.5
4	66/1	2.98.5
5	66/2	0.03.5
6	81/18	0.19.5
7	82/1	0.10.5
8	83/5	0.34.5
9	80/6	0.84.0
10	16/1	0.89.0
11	62/1	0.50.0
12	63/1	0.05.0
13	74/3	0.31.5
14	100/2	1.42.0
15	63/1	3.51.0
16	100/3	0.13.0



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<i>Sl. No.</i>	<i>Survey Number</i>	<i>Extent in Hectares</i>
17	117/3	3.02.0
18	130/1	1.90.0
19	244/3	0.56.5
20	123/1	8.04.5
Total		26.82.5

17. I humbly submit that, meanwhile, eviction proceedings, was initiated U/s 78 and 79 of the Act, against the encroachers, with respect to the lands, stated in the above serial Nos.1, 2 & 3 and with the assistance of the official of the revenue department, possession have been taken and handed over to the temple.

18. I humbly submit that, there are 98 encroachers, in the above said Survey No.80/6. Meanwhile, Public meeting was held on 21.07.2024, in the said meeting it was intimated to encroachers, that, as per G.O.340, the temple, is ready to regularize the encroachers, by fixing fair rent and they should pay the said rent. But the encroachers, refused for the same. In the said meeting, the councillor had also participated.

19. I humbly submit that, since, the encroachers, had not accepted the said proposal, again on 01.08.2024, notices was issued to all the encroachers, intimating them either to give consent letter to regularize them and fix fair rent as per G.O.340, failing which they shall be treated as encroachers and eviction proceedings, will be initiated against the encroachers. But till date they have not given consent letter to regularize them. Hence, on 19.08.2024, proposal was made to the Assistant Commissioner, HR & CE, Salem, to take steps to evict the encroachers. Based on the said same, the Assistant Commissioner, HR & CE, Salem, shall inspect the said encroachment and shall file a report before the Joint Commissioner, HR & CE, Salem, to initiate eviction proceedings, U/s 78 of the Act and evict the encroachers. Meanwhile, with respect to other encroachments, steps are been taken, to remove the encroachment and retrieve the lands belonging to the temple.



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20. I humbly submit that, since, there are vast lands belonging to both temple, steps are been taken to survey the said lands and identify the encroachment and with the help of the revenue officials, encroachments will be removed and the lands will be retrieved and handed to the temples."

3. In the light of the above action taken report filed by the 13th respondent, we direct the 13th respondent/Joint Commissioner, H.R. & C.E. Department, Arulmighu Kottai Periyamariamman Temple Campus, Salem, to take necessary action to evict the encroachers from the properties alleged to have been encroached, by issuing necessary notices and the 11th respondent/Tahsildar, Kadaiyampatti, along with the concerned jurisdictional Commissioner of the Tamil Nadu Hindu Religious and Charitable Endowments Department, are directed to take necessary action for removal of the alleged encroachment in S.Nos.80/6 and 167, within a period of three weeks and remove the alleged encroachment, if necessary by invoking Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. It is to be pointed out that the properties in respect of S.Nos.80/6 and S.No.167, are Government Poramboke lands.

4. In the above context, it is useful to note the following relevant contents of the earlier status report filed by the 12th respondent in September 2024 with



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regard to S.No.167:

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"2. It is respectfully submitted that in Salem District, Kadayampatti Taluk, Marakottai Village, Survey No.167, with an extent of 11.51 hectares, is designated as "Govt Poramboke lands" associated with the Chinnathirupathy Temple. The temple, known as 'Arulmigu Chinnathirupathy Temple, is approximately 100 years old.

... ..

7. To ascertain the social status and eligibility of the petitioners our officials conducted a physical inspection of the lands in Survey No.167 on 13.07.2017.

8. The grievances and requests of the petitioners have been considered as directed by the Hon'ble High Court, based on the enquiry conducted by the then Tahsildar of Kadayampatti.

9. It has been determined, upon physical verification and review of records, that the lands in Survey No.167, Marakottai Village, Kadayampatti Taluk, are Government Poramboke lands. The temple, Karuvalli Arulmigu Prasanna Venkata Ramana Swamy Thirukoil, is located atop "Kundru"-Hills. The alleged encroachers, including the petitioners, have been in possession of the land for over 50 years, having constructed houses and small shops. Many of these individuals are involved in temple-related activities or are low-income earners; while some of the encroachers are economically well off.

10. On 23.09.2024 a review meeting was conducted by the District Collector along with the Revenue Officials and HR & CE officials regarding the above said case. During which the HR & CE Department Joint Commissioner produced the Circular issued by the Commissioner of HR & CE, Chennai vide Na.Ka.NO.37750/2007/M3 Dated 10.11.2022. It contains below mentioned provisions.

"இந்து சமய அறநிலையத்துறையின்
கட்டுப்பாட்டில் உள்ள காலிமனைகளையும்,



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கட்டிடப் பகுதிகளையும் குடியிருப்புக்காக
கூட்டாக ஆக்கிரமித்து நாளது தேதிவரை
தொடர்ந்து பயன்படுத்தி வரும் நபர்களை
வாடகைதாரர்களாக வரன்முறை படுத்துவது
தொடர்பாக உத்தரவிடப்பட்டுள்ளது."

The Joint Commissioner of HR & CE said
that further action will be taken based on the
above circular.

....."

5. It is stated by the learned Special Government Pleader that the encroachers including the petitioners in the connected W.P.No.996 of 2017, are still in possession of the land(s) in question for 50 years and have also put up small shops.

6. It is stated by the learned Special Government Pleader that the concerned Tahsildar has communicated to the encroachers that if the encroachers are willing to continue their possession of the land(s), on payment of the lease amount, if any, based on agreement that would be entered into between the encroachers and the H.R. & C.E. authorities.

7. In view of the said stand taken by the learned counsel appearing for the parties, we direct the fifth respondent-Commissioner of H.R. & C.E. Department, Chennai, and the 11th respondent-Tahsildar, to convene a joint meeting with all the encroachers and if the encroachers agree for entering into lease with the Temple(s), they can be permitted to continue their possession in



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terms of the lease agreement that would be entered into between the parties/encroachers. If the encroachers are not willing for the lease, it is open for the said Tahsildar and the Joint Commissioner of H.R. & C.E. Department, Salem, to initiate necessary action for removal of encroachment by following the procedures as contemplated in law. The provisions of Sections 6 and 7 the Tamil Nadu Land Encroachment Act shall be complied with by the authorities to remove the encroachments. If the encroachers are willing to continue their possession, based on lease agreement as directed above, they can continue to be in respective possession based on the lease agreement that would be entered into between the parties. If at all there is any objection and if the encroachers are not ready to continue their possession, the respondents are directed to take necessary steps for removal of the encroachment by giving further notice to the encroachers and if at all there is any necessity, the jurisdictional Police help shall be sought for removing the encroachment.

8. In this regard, the said whole exercise is directed to be completed and necessary follow-up action be taken within a period of 12 weeks from today.

9. With the above observations and directions, the Writ Petition is disposed of. There shall be no order as to costs.

(D.K.K., ACJ) (P.B.B.,J)
25.09.2024



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HON'BLE ACTING CHIEF JUSTICE
and
P.B.BALAJI, J

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