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W.P.No.26250 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.26250 of 2023

A.Indrani

... Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
- 2.The Commissioner of Police,
Greater Chennai Corporation,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Chennai – 600 007.
- 3.The Assistant Commissioner,
Greater Chennai Corporation,
No.158, Strahans Road,
Opposite to Mahalakshmi Theater, Pattalam,
Purasaiwakkam,
Chennai – 600 012.



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4. The Executive Engineer,
Greater Chennai Corporation,
No.158, Strahans Road,
Opposite to Mahalakshmi Theater, Pattalam,
Purasaiwakkam,
Chennai – 600 012.

5. The Inspector of Police,
P-1, Pulianthoppu Police Station,
Chennai – 600 012.

6. The Tahsildhar,
No.3, Raja Muthaiah Salai,
Purasaiwalkam,
(Near Nehru Indoor Stadium)
Chennai – 600 003.

7. K. Rajapadhar

8. The District Collector,
Chennai.

... Respondents

*[R8 suo motu impleaded by this Court
vide this order dated 14.02.2024]*

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Mandamus directing the respondents to consider
the representation of the petitioner dated 27.07.2023 in accordance with law.



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For Petitioner	:	M/s.S.S.Meenakumary
For R1 to R4	:	Mr.D.B.R.Prabhu Standing Counsel
For R5, R6 & R8	:	Mr.J.Ravindran Additional Advocate General assisted by Mrs.V.Yamuna Devi Special Government Pleader
For R7	:	Mr.G.Mutharasu

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 27.07.2023 in accordance with law.

2.The petitioner appears to be a resident of Santhiappa-Payalapachaiyappa Street, Choolai, Chennai. It is her specific case that she is in possession and enjoyment of her residential house and is living there



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with her daughters. The case of the petitioner is that a group of persons started constructing a small temple by installing deities “Karumariamman” and “Durgaiamman” in between Sandhyappa Street and Payalapachaiappa Street, without obtaining any permission either from the Corporation or from the Revenue Department. It is the further case of the petitioner that, on account of the existing Temple, the public road has shrunk.

3.The petitioner's husband earlier filed a writ petition in W.P.No.36766 of 2005 before this Court for issuance of a Writ of Mandamus to consider his objections. Pursuant to the disposal of the said writ petition with directions to consider the representation of the petitioner's husband, it is stated by the petitioner that they have approached the District Collector for removal of unauthorised construction.

4.Since no action was taken, another writ petition in W.P.No.19965 of 2007 was filed by the petitioner's husband. However, the said writ petition was dismissed in the following lines :

“2.It appears that the petitioner alleged encroachment



of land by a temple and earlier moved this Court by way of a writ petition in W.P.No.36766 of 2005, wherein the authorities were directed to pass appropriate order. Having noticed the facts and circumstances, the Commissioner, Corporation of Chennai vide impugned order dated 5.4.2006 disposed of the representation of the petitioner with the following observation:

“...The Temple under question has been in the above said location for the past 20 years. The existence of the temple is no way an hindrance either to the public or traffic. At this juncture, the sudden removal of the temple may lead to Law and Order problem. The Collector has been addressed to provide an alternative site for the above said temple. After receipt of reply from the Collector, suitable action will be taken in accordance with the law.”

3.In view of the stand taken by the first respondent in the order dated 5.4.2006, we are not inclined to interfere with the order. The writ petition is accordingly dismissed. However, there shall be no order as to costs. Consequently, the connected M.P.No.1 of 2007 is also dismissed.”

5.It appears that the Temple has proposed to put up an additional construction. Therefore, the petitioner has again submitted a representation



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and approached this Court with the above writ petition.

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6.Learned Additional Advocate General appearing for the local body submitted that the Temple is there for a long number of years. However, it is also admitted that steps are being taken by the Collector as it was indicated by the proceedings of the Commissioner.

7.It is to be noted that the Temple is now in existence in public road which is meant for free flow of traffic. On account of the existence of the Temple, public will be put to lot of inconvenience. It is noted from all the representations of the petitioner's husband that festivals and religious functions are being conducted blocking the road. This will further reduce the width of the road and therefore, the Temple cannot be permitted in the larger interest of public. It is stated that the Temple is there in existence for several decades. The encroachment by temple in the public road cannot be encouraged. It is to be noted that, even in the order passed by this Court earlier dismissing the similar writ petition filed by the petitioner's husband,



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the Commissioner, Corporation of Chennai, has mentioned that the Collector has been addressed to provide an alternative site for the said Temple. Therefore, it was decided by the Commissioner himself that suitable action should be taken for shifting the Temple after getting an alternative site for the Temple. In the said circumstances, having regard to the photographs indicating that the existence of the Temple has reduced the width of the road to a drastic minimum, it will not be in the interest of public to allow the Temple encroaching into the public road or pathway. Since there cannot be any encroachment in public pathway, the official respondents cannot compromise on religious sentiments to permit a Temple in the public road. This Court is conscious of the fact that the width of the road as on date does not even permit free access to Fire Services vehicle or Ambulance. Therefore, the public will be deprived of emergency services in case the Temple is allowed to exist in the same place. Therefore, the Temple has to be shifted within a short time.

8. In view of the directions that we propose to issue in this order, the District Collector, Chennai, is *suo motu* impleaded as 8th respondent in this



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writ petition. Mrs.V.Yamuna Devi, learned Special Government Pleader, takes notice for the newly impleaded 8th respondent.

9.Having taken note of all the above facts, this writ petition is disposed of with the following directions :

- i. The Commissioner, Corporation of Chennai, is directed to take appropriate action for removal and shifting of the Temple within a period of six months from today.
- ii. The 8th respondent/District Collector shall find an alternative place for shifting the Temple in the nearby vicinity, with the co-operation of the local body, within a period of four months from the date of receipt of a copy of this order.
- iii. In case the 8th respondent/District Collector is unable to find an alternative place, it is open to the 7th respondent to find an alternative place on their own by spending the money collected from devotees of the Temple and other interested persons.
- iv. After giving a reasonable time for shifting the Temple either to the place earmarked by the District Collector or that may be chosen by



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the Temple administration, on their own, the existing structure should be removed within a period of one year from today.

- v. The officials of Corporation of Chennai are also directed to take action if the petitioner herself is in encroachment of public property or has put up any construction without adherence to the Regulations.
- vi. No costs.

(S.S.S.R., J.) (N.S., J.)
14.02.2024

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Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No

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