



W.P.No.27337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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M.PRAKASH

.. Petitioner

Vs

1. THE DISTRICT COLLECTOR
VILLUPURAM DISTRICT, VILLUPURAM.

2. THE TAHSILDAR
THIRUVENNAINALLUR TALUK,
THIRUVENNAINALLUR, VILLUPURAM DISTRICT.

3. THE PRESIDENT
AANAIVARI PANCHAYAT,
AANAIVARI, THIRUVENNAINALLUR TALUK,
VILLUPURAM DISTRICT.

4. THE ASSISTANT ENGINEER
WATER RESOURCES ORGANIZATION,
IRRIGATION DIVISION, PUBLIC WORKS DEPARTMENT,
THIRUVENNAINALLUR, THIRUVENNAINALLUR TALUK,
VILLUPURAM DISTRICT.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 4th respondent in his Letter No.Ko.4 Encroachment, 2024/A.E.Thi.



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Vae.Nallur, dated 09.09.2024 and quash the same and consequently direct the 4th respondent to shift the Kebi (Vazhithunai Madha Temple) in the same village of Paragampattu Village, Thiruvennainallur Taluk, Villupuram District.

For the Petitioner : Mr.C.Prakasam

For Respondents : Mr.A.Edwin Prabakar
State Government Pleader

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

Assailing the proceedings dated 9.9.2024 issued by the fourth respondent, wherein it is stated that the petitioner failed to remove the encroachment on his own despite granting opportunity and, therefore, the respondents would remove the Kebi (Vazhithunai Madha Temple) on 12.9.2024, the present writ petition is filed as a public interest litigation.

2. A bare perusal of the notice dated 9.9.2024 makes it clear that the writ petitioner is also one of the addressees. That being so, it is not known as to how the petitioner has filed this writ petition as a public interest litigation. However, considering the fact that the



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alleged encroachment is a Kebi (Vazhithunai Madha Temple), where the devotees offer their prayers, we heard learned counsel on either side.

3. Learned State Government Pleader submitted that the proceedings impugned in this writ petition has been issued in the aftermath of the order dated 19.8.2024 passed by a learned Single Judge in W.P.No.22515 of 2024 and the Kebi (Vazhithunai Madha Temple) is irrefutably an encroachment.

4. In the order dated 19.8.2024 passed in W.P.No.22515 of 2024, the learned Single Judge observed as under:

"2.The learned Additional Advocate General appearing for the respondents as well as the learned counsel appearing for the religious institution submitted that the encroachment which pertains to religious structure will be safely removed and the religious structure will be installed in the place owned by religious institution within a period of 21 days from the date of receipt of a copy of this order.



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3. Status report has been filed by the fourth respondent and compliance report has also been filed.

4. In view of the submission made by the learned Additional Advocate General appearing for the respondents as well as the learned counsel appearing for the religious institution, the matter stands adjourned to 17.09.2024."

[emphasis supplied]

5. When an undertaking has been given by the learned counsel appearing for the religious institution before the learned Single Judge that the religious structure will be safely removed and installed in the place owned by the religious institution within a period of 21 days, the present writ petition to protract the proceedings and circumvent compliance of the aforesaid direction cannot be entertained by this court. In fact, the learned Single Judge has posted the matter for compliance on 17.9.2024. We find no merit in the plea raised by the petitioner.



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6. At this juncture, learned counsel for the petitioner submitted that shifting of Kebi (Vazhithunai Madha Temple) and installing the same at a different location would involve huge outlay and the members associated with the temple are strapped for cash; and, therefore, seeks financial assistance from the government.

7. In response to the said plea, learned State Government Pleader submitted that there is no provision empowering the government to grant financial assistance for shifting of Kebi (Vazhithunai Madha Temple), which was erected on the government land, and installing the same at a different place.

8. In such circumstances, we suggest that, if the petitioner or persons associated with the Kebi (Vazhithunai Madha Temple) are skint, they may approach the elected representatives concerned seeking financial assistance from the funds of the local constituency. This Court is not inclined to give any positive direction in that regard.



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9. The writ petition, sans merits, is dismissed. There shall be no order as to costs. Consequently, W.M.P.No.29825 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B, J.)
12.09.2024

Index : Yes/No
NC : Yes/No
sasi

To:

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P.B.BALAJI, J.

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