



WEB COPY



W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of
2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024
and
W.M.P.(MD) Nos.2696, 2698, 2703, 2697 & 2699 of 2024

W.P.(MD) No.2684 of 2024:

P.Shanmuga Boopathy

... Petitioner

-VS-

1.The Tahsildar
Palani Taluk Office
Palani, Dindigul District

2.The Executive Officer /
Joint Commissioner
Department of Hindu Religious &
Charitable Endowments
Arulmighu Dhandayuthapaniswamy Thirukkivil
Palani Town, Dindigul District

... Respondents



WEB COPY

W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records of the impugned order passed by the first respondent in his proceedings in Na.Ka.No.9317/2017/C2, dated 31.01.2024 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.B.Saravanan, Senior Counsel
assisted by Mr.D.Kirubakaran

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader for R1
Mr.R.Baraneedharan
for Mr.R.Murali for R2

COMMON ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the first respondent and Mr.R.Murali, learned counsel, takes notice for the second respondent.



WEB COPY

W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

2. With the consent of both sides, these writ petitions are taken up for final hearing at the admission stage itself.

3. Since the issue involved in all these writ petitions is one and the same, they are heard together and are being disposed of by this common order.

4. The notice, dated 31.01.2024, issued by the first respondent, directing the petitioners to remove the encroachments made by them in Survey No.877/2A, Block No.20, Ward No.3, Palani Town, is under challenge in the present writ petitions.

5. Learned Senior Counsel appearing for the petitioners would submit that the property in question is Survey No.877/2A. Whereas, the petitioners already filed suits in O.S.Nos.41, 46, 45, 44 & 47 of 2018, on the file of the District Munsif Court, Palani, praying for permanent injunction restraining the second respondent herein or others from in any manner interfering with their peaceful possession and enjoyment of the property



W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

WEB COPY

situated in T.S.No.878/4, Adivaram, Palani Taluk, Dindigul District. The said suits came to be decreed by Judgment and Decree dated 21.10.2019. The appeals preferred by the Devasthanam / second respondent, against the said Judgment and Decree dated 21.10.2019 passed in the said suits, are pending disposal.

6. Learned Senior Counsel would further submit that the property in question, namely, shop is situated only in Survey No.878/4 and not 877/2A and hence, the said property is a private patta land and the same is not belonging to the Revenue Department and therefore, the Revenue Department has no right for removal of encroachments in the said property.

7. Learned Additional Advocate General appearing for the first respondent has strongly objected the above contentions of the learned Senior Counsel by stating that the property in question in 877/2A is a poramboke land and it is classified as “Temple Poramboke” in the revenue records and therefore, the Revenue Authority is the competent authority to remove the encroachments in the said survey number.



WEB COPY

W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

8. Learned Additional Advocate General would further submit that the Revenue Tahsildar has conducted a survey in the entire property in Survey No.877/2A with the assistance of the Taluk Surveyor and has found that there are encroachments made by the petitioners by running chips shops, which are to be removed.

9. Learned counsel appearing for the second respondent / Devasthanam has categorically stated that in the property in question, the petitioners have no right to make any claim. Though the civil suits filed by the petitioners relate to Survey No.878/4, the Devasthanam has got right over the same and hence, they have preferred appeal before the first Appellate Court and they are pending disposal.

10. Heard the learned counsel on either side and perused the materials available on record.

11. The respondents have placed materials before this Court to show that the property in question i.e.877/2A is a temple poramboke land. The same has not been disputed by the petitioners. According to the



W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

WEB COPY

petitioners, they are running shops in Survey No.878/4 and they have not made any encroachment in Survey No.877/2A and if a proper survey is conducted, it would be clear that they have not made any encroachment in Survey No.877/2A. The respondents have conducted a survey in the property in question and served the impugned notices to the petitioners individually for removal of encroachments. According to the learned Additional Advocate General, based on the survey report necessary action will be taken for removal of encroachment in the subject property.

12. Considering the above facts and circumstances of the case, we are of the view that the land in Survey No.877/2A is a temple poramboke land and therefore, the petitioners cannot have any right over the same. In such circumstances, we direct the revenue officials concerned to conduct a proper survey in Survey No.877/2A in the presence of the petitioners, with the assistance of the Taluk Surveyor concerned, on 08.02.2024 at 09.00 a.m., and find out whether there is any encroachment in Survey No.877/2A or not. If any encroachment is found in Survey No.877/2A, then necessary action is to be taken by the respondents for removal of those encroachments, in accordance with law, immediately.



WEB COPY



W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

13. With the above direction, these writ petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

07.02.2024

(1/3)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

Upload in the Website today.

krk

To:

The Tahsildar,
Palani Taluk Office,
Palani, Dindigul District.



WEB COPY



W.P.(MD) Nos.2684, 2685, 2688, 2689 & 2690 of 2024

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

krk

W.P.(MD) Nos.2684, 2685, 2688, 2689
& 2690 of 2024
and
W.M.P.(MD) Nos.2696, 2698, 2703,
2697 & 2699 of 2024

07.02.2024

(1/3)