



W.P.(MD) No.2669 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)No.2669 of 2024

and

W.M.P.(MD)No.2678 of 2024

Ramasamy

... Petitioner

-Vs-

1.The Tahsildar,
Palani Taluk, Dindigul District.

2.The Executive Officer and Joint Commissioner,
Representing Arulmigu Dhandayuthapani
Swami Thirukovil,
Adivaram, Palani, Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice issued by the 1st respondent by his proceedings in Na.Ka.No.9317/2017/C2, dated 31.01.2024 and quash the same as illegal.



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For Petitioner : Mr.T.Lenin Kumar
For R1 : Mr.Veera.Kathiravan,
Additional Advocate General,
assisted by Mr.S.P.Maharajan,
Special Government Pleader
For R2 : Mr.R.Baranidharan,
For Mr.R.Murali

ORDER

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

The eviction notice dated 31.01.2024 issued by the 1st respondent is under challenge in this Writ Petition.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, who is the President of Kurumbur Mutt, a Temple, namely, Vinayagar Temple was constructed in Survey No.861/2 at Palani Adivaram 200 years ago. During Thaipoosam and Panguni Uthiram Festival, the petitioner's community people set up a Thanneer Pandhal through which they will supply water, butter milk etc., to the devotees. The said temple is situated 44 feet



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away from Giri Veethi. Though the temple in question was constructed by our ancestor, it is under the control of the 2nd respondent.

4.The petitioner states that one Natchimuthu Chettiar, who is having property behind the temple in question, had filed a suit in O.S.No.710 of 1996 before the District Munsif Court, Palani, seeking permanent injunction to restrain the President and Secretary of the Mutt from putting up any kind of construction in Survey No.861/2, wherein the trial Court directed the 2nd respondent to provide pathway width of 10 feet to the said Natchimuthu Chettiar. On appeal by the 2nd respondent in A.S.No.43 of 2000 before the Sub Court, Palani, the same was allowed in favour of the 2nd respondent. The matter went upto the Supreme Court by way of S.L.P.No.3617 of 2014 and the same was dismissed against the said Natchimuthu Chettiar.

5.He further states that one Para Sakthivel and Manickam filed two separate Writ Petitions, seeking removal of the temple in question and the same were dismissed by observing that the temple in question is neither an encroachment nor a hindrance to anyone, including the devotees, who are using Giri Veethi. The Revenue Divisional Officer, Palani, based on the representation given by the petitioner, conducted an enquiry and submitted a report dated



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29.03.2005 before the District Collector, Dindigul, stating that the temple in question is no way hindrance to the general public or public transport. However, contrary to the said report, the 1st respondent issued the impugned notice dated 31.01.2024, calling upon the President and Secretary of the Mutt to remove the temple in question on or before 07.02.2024 or otherwise, he will remove the same on 08.02.2024. Challenging the same, the petitioner has filed this Writ Petition.

6.Mr.R.Baranidharan, learned counsel, who takes notice for the 2nd respondent, submits that the temple in question was constructed on Giri Veethi and the same is under the control of the 2nd respondent. Several lakhs of devotees are coming to the Arulmigu Dhandayuthapani Swami Temple, Palani to worship the Lord Muruga. Therefore, it is required for the 2nd respondent to grant more space for Giri Veethi. Hence, the 1st respondent has initiated action for removal of encroachment, including the temple in question.

7.Mr.Veera Kathiravan, learned Additional Advocate General, assisted by Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for the 1st respondent, submits that in normal days, more than one lakh devotees are coming to worship the Lord Muruga and at the time Thaipooam and Panguni Uthiram Festival, more than three lakhs devotees are coming and there is no



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sufficient space in Giri Veethi. Therefore, in order to give more space to Giri Veethi and more facilities to the devotees, the authorities concerned initiated action to remove the encroachment, including the temple in question. He further submits that the temple in question is situated in Government Poramboke land and now, it has been handed over to the 2nd respondent. Therefore, for the interest of the devotees and general public, action has been initiated by the revenue officials and the Devasthanam.

8.Considering the submissions made on either side, we are of the view that the petitioner has no *locus standi* to question the removal of encroachment and even if the temple is constructed on the objectionable place or in the road, the same shall also be removed by the authorities concerned. Therefore, we are not inclined to entertain this Writ Petition. Accordingly, this Writ Petition stands dismissed.

9.At this juncture, the learned counsel appearing for the petitioner fairly requested this Court that the temple in question may be shifted to any other place as desired by the 2nd respondent, for which, the learned counsel for the 2nd respondent is also agreeable.



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10. In the light of the above, the 2nd respondent shall make necessary arrangements to shift the temple in question in the alternative place as desired by the 2nd respondent and the petitioner shall also make suggestion to find out suitable land for construction of the temple in question. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]

07.02.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva

To

The Tahsildar,

Palani Taluk,

Dindigul District.



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AND

R.VIJAYAKUMAR, J.

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