



W.P.(MD)No.9219 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.04.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

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A.Panneer Selvam

... Petitioner

vs

**1.The District Collector,
Virudhunagar Collectorate Campus, Virudhunagar.**

**2.The Tahsildar,
Aruppukottai, Virudhunagar District.**

**3.The Commissioner,
Aruppukottai Municipality,
Virudhunagar District.**

4.S.Karunanithi

5.Ka.Kazhusuvalingam

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 1st to 3rd respondents to remove the encroachment made by the 4th and 5th respondents along with other residents in Sivanandhapuram street by construction of temple for deity Muthirulaiamman considering the petitioner's representation dated 29.08.2022 given to the 1st respondent.



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For Petitioner : Mr.I.Suthakaran
For R1 and R2 : Mr.S.Shaji Bino
Special Government Pleader
for R3 :Mr.N.Dilip Kumar

ORDER

(Order of this Court was made by **G.ARUL MURUGAN, J.**)

This Writ Petition is filed to direct the first and third respondents to remove the encroachment made by the fourth and fifth respondents along with other residents in Sivanandhapuram Street by construction of a Temple for Deity, Muthirulaiamman by considering the representation, dated 29.08.2022.

2.By consent, the Writ Petition is taken up for final hearing at the admission stage itself.

3.Heard Mr.I.Suthakaran, learned Counsel for the petitioner, Mr.S.Shaji Bino, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.N.Dilip Kumar, learned Counsel appearing for the third respondent. In view of the order, that is proposed to be passed,



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notice to the fourth and fifth respondents is dispensed with.

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4.The case of the petitioner is that the fourth and fifth respondents joining along with other villagers, in spite of the objections made by the petitioner, had constructed a Temple for Deity in the name of Muthirulaiamman, in the Sivanandhapuram Street, which is abutting the house of the petitioner. Due to the construction of the Temple, the petitioner is not able to carry out any repair work of his house on the northern side, as the Temple was constructed without obtaining any permission from the third respondent, that too by encroaching the public street. The petitioner has made a representation, dated 29.08.2022 for taking necessary action. After several reminders were sent, the second respondent by proceedings, dated 21.12.2022, directed the revenue officials to conduct a survey and file a report. Thereafter, the third respondent had also by proceedings, dated 09.03.2023, confirmed that the construction of the Temple has been made by encroaching the public street. In spite of the same, still no action has been taken, the petitioner has come up with the above Writ Petition.



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5.Mr.I.Suthakaran, learned Counsel for the petitioner reiterating the averments made in the affidavit contended that even though encroachment has been made in the public street and the second respondent had directed the revenue officials to carry out survey, further, the third respondent Municipality had by proceedings, dated 09.03.2023, confirmed that construction of the Temple has been made in the public street, no further concrete action has been taken against the fourth and fifth respondents for removal of the encroachment.

6.Mr.S.Shaji Bino, learned Special Government Pleader appearing for the first and second respondents submitted that the representation of the petitioner will be considered and necessary action would be taken based on the report submitted by the revenue authorities.

7.Heard the learned Counsels on either side and perused the materials available on record.

8.The petitioner alleges that the construction of the Temple has been made in the public street by abutting his house, had sent representation to



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the authorities for taking necessary action as against the encroachment.

Pursuant to the representation submitted by the petitioner, further reminder was sent on 31.10.2022, which has been received by the first respondent, wherein, the petitioner was directed to approach the second respondent.

9.The second respondent, thereafter, by proceedings, dated 21.12.2022, had requested the revenue officials to conduct joint inspection in respect of the encroachment, if any, and after conducting an enquiry, to submit a report. The third respondent also pursuant to the complaint forwarded by the first respondent, had submitted a report on 09.03.2023 to the first respondent to the effect that the name of the petitioner has been recorded in the Town Survey Register for an extent of 162.5 sq.mtre in Ward-C, Block-3 in T.S.No.53 and also had further stated that in T.S.No.53, a Temple has been constructed. But the report is not clear as to whether the Temple is in the road.

10.Be that as it may, already proceedings has been initiated on the representation submitted by the petitioner and also reports have been submitted by the third respondent, we feel that it would be suffice to direct



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the second respondent to take necessary follow up action pursuant to the complaint of the petitioner within a time frame.

11. Accordingly, the second respondent is directed to take necessary action pursuant to the representation of the petitioner, dated 29.08.2022 after conducting proper survey and considering the report of the third respondent within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the second respondent shall conduct enquiry by giving prior notice to the fourth and fifth respondents and any other person interested and thereafter, take necessary action, if there is any encroachment. Accordingly, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**[R.S.K., J] & [G.A.M., J]
15.04.2024**

Internet : Yes/No
Index : Yes/No
NCC : Yes/No

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To

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Virudhunagar Collectorate Campus,
Virudhunagar

2.The Tahsildar,
Aruppukottai,
Virudhunagar District.



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R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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