



**W.P.(MD)No.19013 of 2024**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 27.08.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
and  
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.19013 of 2024  
and  
W.M.P.(MD)No.16088 of 2024**

S.Lakshmi

... Petitioner

-VS-

- 1.The District Collector,  
District Collectorate,  
Virudhunagar District - 626 002.
- 2.The Commissioner (Monitoring Committee),  
H.R. and C.E. Department,  
No.119, Uthamar Gandhi Street,  
Thousand Lights,  
Chennai – 600 034.
- 3.The Joint Commissioner,  
O/o.Joint and Assistant Commissioner,  
H.R. and C.E. Department, Ellis Nagar,  
Madurai - 625 016.
- 4.The Assistant Commissioner,  
H.R. and C.E. Department,  
No.18, Naatchi Street, Virudhunagar District - 626 001.



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5.The Revenue Divisional Officer,  
Sivakasi Taluk,  
Virudhunagar District - 626 002.

6.The Thasildar,  
Srivilliputhu Taluk,  
Virudhunagar District - 626 125.

7.The Municipality Commissioner,  
Srivilliputhu Taluk,  
Virudhunagar District - 626 125.

8.The Superintendent of Police,  
District Collectorate,  
Virudhunagar - 626 002.

9.The Inspector of Police,  
Srivilliputhur Town Police Station,  
Srivilliputhur - 626 125.

10.T.Selvaraj

11.R.Anandhakumar

12.Ajay, S/o.Ayyanar

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3<sup>rd</sup> and 4<sup>th</sup> respondents to take necessary action to completely remove the illegal construction put up by the 12<sup>th</sup> respondent based on the representation sent by petitioner to the respondents dated 19.07.2024.



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For Petitioner : Mr.K.Malaimaran  
For R1 to R6 : Mr.P.T.Thiraviyam  
Government Advocate  
For R8 & R9 : Mr.B.Thanga Aravindh  
Government Advocate (Criminal side)

**ORDER**

[Order of the Court was made by **R.SUBRAMANIAN, J.**]

Prayer in the Writ Petition reads as follows:-

*"To issue a Writ of Mandamus, directing the 3<sup>rd</sup> and 4<sup>th</sup> respondents to take necessary action to completely remove the illegal construction put up by the 12<sup>th</sup> respondent based on the representation sent by petitioner to the respondents dated 19.07.2024."*

2. Since we are not passing any adverse order against the respondents 11 and 12, notice to them is deemed unnecessary.

3. By our order dated 07.08.2024, we had required the Joint Commissioner, H.R. & C.E. Department, Madurai, to file a report on the action taken, since petitioner's grievance was that illegal construction has been put up by the 12<sup>th</sup> respondent in the property belonging to Arulmigu Draupadi Amman Temple.



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4. The Joint Commissioner, H.R. & C.E. Department, Madurai, has filed a report, wherein it is stated that the Hereditary Trustee is permitting several irregularities in the Temple and the Inspector, H.R. & C.E. Department, Srivilliputhur, had even requested that a fit person be nominated for the Temple as early as on 03.10.2023, but nothing seems to have been done on that front. The Joint Commissioner, H.R. & C.E. Department has said that the Hereditary Trustee has not taken steps to remove the encroachments under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"].

5. Section 78 of the H.R. & C.E. Act empowers an Assistant Commissioner to take action either *suo motu* or on information against the encroachment. The tenor or language of the status report filed by the Joint Commissioner, H.R. & C.E. Department, Madurai, discloses a complete unwillingness on the part of his Office to take any action against the illegal encroachments or illegal constructions that have been put up in the Temple's property.



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6. The pendency of an enquiry against the Hereditary Trustee is attempted to be used as a shield to cover up the deficiencies in the working of the concerned Assistant Commissioner as well as the Joint Commissioner. The enquiry regarding the conduct of the Hereditary Trustee can go on side by side and action for removal of encroachment can also be taken. We, therefore, do not accept the justifications stated in the status report. Once it is found that there has been an encroachment of Temple's property, the authorities under the H.R. & C.E. Act, particularly, the Assistant Commissioner of the area namely, the fourth respondent can immediately take action for removal of the encroachment. No co-operation or sanction or permission of the Hereditary Trustee is necessary for taking such action. Hence, this Writ Petition is allowed. No costs. The respondents particularly, the respondents 3 and 4 will take appropriate action to remove the illegal construction strictly in accordance with Section 78 of the H.R. & C.E. Act after due notice to the alleged encroacher. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No  
Index : Yes / No  
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[R.S.M., J.] [L.V.G., J.]  
27.08.2024



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