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W.P.(MD) No.15491 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

CORAM:

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

**W.P.(MD) No.15491 of 2018
and
W.M.P.(MD) No.13947 of 2018**

K.Alagarsamy

... Petitioner

-vs-

The Commissioner
Madurai Corporation
Madurai

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondent, their men, agents, servants or any one claiming under them from demolishing the compound wall existing around the temple of Lord Sri Ananda Anjaneyar situated in Vallanandapuram, Avaniapuram Village, Madurai District, based on the notice issued by the respondent dated 04.07.2018.



WEB COPY

W.P.(MD) No.15491 of 2018

For Petitioner : Mr.S.Madhavan

For Respondent : Mr.K.Manisekaran

ORDER

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

Prayer in this writ petition is to forbear the respondent from demolishing the compound wall existing around the temple of Lord Sri Ananda Anjaneyar, situate in Vallanandapuram, Avaniapuram Village, Madurai District, based on the notice dated 04.07.2018, issued by him.

2. According to the petitioner, the compound wall, which is sought to be removed, has been constructed by the villagers in order to protect the above said Temple, which situate on the bund of a pond. However, before issuing the impugned notice, the respondent had not issued any show cause notice either to the parties concerned (villagers) or one Arumugam, who has already been issued with a 2C Patta in respect of the subject property,

3. Learned counsel appearing for the respondent has not disputed the above submission of the petitioner.



WEB COPY

W.P.(MD) No.15491 of 2018

4. A perusal of the impugned notice shows that it appears to be a final order directing removal of encroachment i.e. Compound wall said to have been constructed by the villagers concerned and there is no reference with regard to objections of the villagers concerned or one Arumugam, who has been issued with a 2C Patta in respect of the subject property, were called for.

5. In the said circumstances, this Court is inclined to pass the following orders:

- (i) The writ petition is allowed.
- (ii) The impugned notice, dated 04.07.2018, issued by the respondent, is quashed, on the ground of violation of the principles of natural justice.
- (iii) The respondent is directed to issue a show cause notice to the parties concerned and after receiving their objection / explanation, the respondent shall pass orders on merits and in accordance with law.
- (iv) It is needless to state that if the compound wall is found to be an encroachment, necessary steps shall be taken for removal of the same in accordance with law.



WEB COPY

W.P.(MD) No.15491 of 2018

- (v) Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.
- (vi) No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

13.02.2024

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

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W.P.(MD) No.15491 of 2018

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