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W.P.(MD) No.22450 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

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

W.P.(MD) No.22450 of 2021

P.Karthikeyan

... Petitioner

-VS-

- 1.The District Collector
Trichy District, Trichy
- 2.The Commissioner
Hindu Religious &
Charitable Endowment Board
Nungambakkam, Chennai
- 3.The Revenue Divisional Officer
Revenue Divisional Office
Musiri, Trichy District
- 4.The District Public Health Officer
District Public Health Office
Trichy
- 5.The District Environmental Engineer
District Environmental Engineer Office
Trichy
- 6.The Tahsildar
Thuraiyur Taluk, Trichy District



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7.The Block Health Officer
Thuraiyur Block
Trichy District

8.The President
Kannanur Village Panchayath
Vadakku Veli
Thuraiyur, Trichy District

9.The Executive Officer
Arulmighu Nandeeswarar Thirukovil
Hindu Religious & Charitable Endowment Board
Thuraiyur Taluk, Trichy District

10.Muthusamy

11.Dharmalingam

12.Mani

13.Murugesan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 9 to take appropriate action under Rule 34 of Tamil Nadu Panchayat Building Rules, 1997 as against the respondents 10 to 13 herein for the encroachment and the illegal and unauthorized construction made by them in Survey Nos.588/13 and 588/9 of Vadakku Veli Village, Thuraiyur Taluk, Trichy District and restore the public pathway and Vari @ Odai, which was existed in the above said survey numbers within the time stipulated by this Court.



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For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.N.Satheesh Kumar
Additional Govt. Pleader for R1 to R4, R6 & R7
Ms.Vijayakumari Natarajan for R5
Mr.S.Kameswaran
Government Advocate for R8 & R9
No appearance for R10 to R13

ORDER

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

Prayer in this writ petition is to direct the respondents 1 to 9 to take appropriate action under Rule 34 of Tamil Nadu Panchayat Building Rules, 1997 as against the respondents 10 to 13 for the encroachment and the illegal and unauthorized construction made by them in Survey Nos. 588/13 and 588/9 of Vadakku Veli Village, Thuraiyur Taluk, Trichy District and restore the public pathway and Vari @ Odai, which was existed in the above said survey numbers, within the time stipulated by this Court.

2. According to the petitioner, there is a Temple, namely, Arulmighu Mariamman Thirukovil in Survey No.588/9, which is a Government Poramboke Land. The said Temple owns a land for an extent of 0.01.80 Ares. The remaining land has been kept vacant, wherein a Noon Meal



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Centre was constructed by the Government and nearby Vari @ Odai, a village road passes through Survey Nos.588/6, 588/13 and 588/9. The villagers have been using the said road to reach Musiri Main Road.

3. Further, according to the petitioner, the tenth respondent, who is acting as Trustee of the said Temple, without getting any permission from the authority concerned, demolished the Government Noon Meal Centre situated in the Government Poramboke land in Survey No.588/9 and destroyed the public road and diverted the Vari @ Odai running through Survey Nos.588/13 and 588/9, in front of the petitioner's house and they also encroached upon the land in Survey No.588/9 and constructed a commercial complex without getting any permission from the Government and let out the same for rent and have been receiving money illegally for their benefits.

4. Further, according to the petitioner, due to the said unauthorized and illegal construction made by the respondents 10 to 13, drainage water and rain water flows in front of the petitioner's house, thereby mosquitoes are breeding and spreading dengue fever, which causes health hazards to the residents of the locality. Further, due to the said diversion of



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Vari @ Odai, the flow of water of the said Vari @ Odai gets blocked frequently, which also causes much inconvenience to the residents of the locality. In such circumstances, seeking to take appropriate action as against the respondents 10 to 13 and to remove the illegal encroachment of construction made by them on the pathway and drainage in Survey Nos.588/13 and 588/9 and to restore the public pathway, the petitioner sent a representation, dated 24.08.2020, to the respondents 1, 2, 6 and 8. Despite the same, no action was taken based on the said petitioner's representation. Hence, this writ petition.

5. The Executive Officer of the said Temple / ninth respondent has filed a counter affidavit by stating that the petitioner has put up a gate in front of his house with an intention of encroaching upon the temple land and he has encroached upon the pathway used by the devotees in Survey No. 588/9. Further, the petitioner discharges drainage water from his house into the temple land. The small drainage leading to the large drainage in Survey No.588/23 is obstructing the drainage water coming to the temple. The thirteenth respondent has encroached upon the temple land in Survey No. 588/9.



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6. The Government Advocate appearing for the respondents 8 and 9, on instructions, submits that the subject land belongs to the Temple. There is no nexus between petitioner's grievance and the subject land and since the subject land belongs to the Temple, as per the provisions of the Hindu Religious and Endowments Act, 1951, the Temple land cannot be given to any individual or general public. To that effect, the learned Government Advocate has produced a copy of the communication dated 12.03.2024 received from the Inspector, Hindu Religious and Charitable Endowments Department, Thuraiyur, before this Court.

7. Considering the facts and circumstances of the case, we are inclined to pass the following orders:

- (i) The petitioner is permitted to make a fresh representation to the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Trichy, within a period of two weeks from the date of receipt of a copy of this order.
- (ii) On receipt of such representation, the Joint Commissioner shall consider the same under Section



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78 of the Hindu Religious and Charitable Endowments Act, 1951 and pass orders on merits and in accordance with law, after providing due opportunity to the parties concerned, as expeditiously as possible.

8. With the above directions, this writ petition is disposed of. No costs.

[D.K.K., J.]

[R.V., J.]

18.03.2024

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

Note to Office:

Mark a copy of this order to the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Trichy.

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To:

1.The District Collector,
Trichy District, Trichy.



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