



W.P.(MD)Nos.23438 to 23440 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM:

**THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)Nos.23438 to 23440 of 2024
WMP(MD)Nos.19843, 19846, 19848 of 2024**

M.Paneerselvam	... Petitioner in WP(MD)No.23438 / 2024
Shanmuga Boopathi	... Petitioner in W.P.(MD)No.23439 / 2024
Sasikala	... Petitioner in W.P.(MD)No.23440 / 2024

vs.

1.The District Collector, Dindigul District.	
2.The Revenue Divisional Officer, Palani, Dindigul District.	
3.The Joint Commissioner, Executive Officer, Arulmigu Dhandayuthapaniswamy Thirukovil, Palani.	... Respondents in all the W.Ps.

Prayer in WP(MD)No.23438 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent in Na.Ka.No. 369/2018/C6 dated 24.09.2024, quash the same insofar as the petitioner is



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concerned and consequently, forbear the 3rd respondent herein, its men, agents, subordinates or anyone claiming on behalf of the 3rd respondent in the light of the decree dated 21.10.2019 passed in O.S.No.47 of 2018 on the file of District Munsif Court, Palani and during pendency of AS No.103 of 2019 on the file of the Sub-Court, Palani filed by the 3rd respondent.

Prayer in WP(MD)No.23439 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent in Na.Ka.No. 369/2018/C6 dated 24.09.2024, quash the same insofar as the petitioner is concerned and consequently, forbear the 3rd respondent herein, its men, agents, subordinates or anyone claiming on behalf of the 3rd respondent in the light of the decree dated 21.10.2019 passed in O.S.No.41 of 2018 on the file of District Munsif Court, Palani and during pendency of AS No.105 of 2019 on the file of the Sub-Court, Palani filed by the 3rd respondent.

Prayer in WP(MD)No.23440 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent in Na.Ka.No. 369/2018/C6 dated 24.09.2024, quash the same insofar as the petitioner is concerned and consequently, forbear the 3rd respondent herein, its men, agents, subordinates or anyone claiming on behalf of the 3rd respondent in the light of the decree dated 21.10.2019 passed in O.S.No.44 of 2018 on the file of District Munsif Court, Palani and during pendency of AS No.102 of 2019 on the file of the Sub-Court, Palani filed by the 3rd respondent.

For Petitioners : Mrs.Dakshayani Reddy, Senior Counsel
for M/s.K.Muthu Ganesa Pandian

For Respondents : Mr.N.Sathishkumar,
Additional Government Pleader for R1 & R2
Mr.R.Murali for R3



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COMMON ORDER

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

These writ petitions are filed challenging the impugned order passed by the third respondent Temple dated 24.09.2024, in and by which Closure of Business was ordered for the shops in T.S.No.878/1 to 878/7, within 7 days from the date of receipt of the notice.

2. According to the learned Senior Counsel for the petitioners, the petitioners had filed a Suit in O.S.Nos.276 to 286 of 1998 on the file of the Sub-Court, Dindigul as against the eviction notice issued by the 3rd respondent Devasthanam in respect of Survey Nos.877/2A and 878 and prayed for an ad-interim injunction from interfering with the petitioner's possession and enjoyment. The said suits were renumbered as O.S.Nos.82 to 92 of 2004 on the file of the District Munsif Court Palani and it was dismissed. Thereafter, the petitioners filed W.P.(MD).Nos.21429 to 21433 of 2015, challenging the eviction notices and it was dismissed on 15.04.2016. Challenging the same, the petitioners filed SLPs and it was dismissed with liberty to the petitioners to relegate their remedy before the Civil Court and the same shall be decided



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independently without being influenced by the impugned order.

3. Thereafter, the petitioners filed O.S.Nos.41, 44 and 46 of 2018 on the file of the District Munsif Court, Palani praying for an ad-interim injunction. The said Suits came to be decreed in favour of the petitioners, against which the 3rd respondent Devasthanam has filed AS.Nos.102, 103 and 105 of 2019 on the file of the Sub-Court Palani and it is pending. According to the petitioners, when the Civil Court decree is in their favour granting permanent injunction frp, interfering with their peaceful possession, the 3rd respondent had issued the impugned notice for closure of business which is arbitrary and therefore, prayed for interference.

4. *Per contra*, Mr.R.Bharanidharan, learned Standing Counsel for the Devasthanam Board, Palani has drawn the attention of this Court to the counter affidavit filed by the third respondent wherein it has been stated that S.F.No. 811/C (Road and Village site), was later subdivided into many parts and also the suit property in T.S.No.878 has been formed in the later 1920's and classified as "Natham Private". The same was once under the usage and maintenance of the



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temple. As per G.O.No.1258 dated 28.06.1948 and G.O.No.3324 dated 31.08.1974, the lands contained in T.S.Nos.861/2, 868/3, 877/2A, 877/1C2, 889/1 and 882/3 in Ward No.3, Block No.19 and 20 to an extent of 13 Acres 12888 Sq.Ft of land around Hill bottom, the Giriveedhi are transferred to the maintenance of the temple management along with the conditions stated in it and thus, the inner part of the giriveethi came under the control of the temple administration. According to the third respondent Temple, when the petitioner's predecessors had illegally encroached upon the property in the slope of the hill and put up construction in the property, the temple administration had made steps to evict the encroachers. In the aforesaid Government Order it has been clearly stated that there should not be any commercial activities in Giriveedhi and therefore, the petitioner have filed writ petitions before this Court and the same came to be dismissed and SLP was also dismissed with liberty.

5. According to the third respondent Temple, patta was illegally granted in favour of the petitioners and the appeal filed by the third respondent is pending before the Revenue Divisional Officer, Palani. According to the Devasthanam Board, since the petitioners have already filed O.S.Nos.82 to 94 of 2004 before



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the District Munsif Court, Palani and subsequently the said suits were dismissed for default and without filing an application for restoring the said suits, subsequent suits are filed in O.S.Nos.41, 44 and 46 of 2018, which is not at all maintainable and hit by Doctrine of Res Judicata. Therefore, according to the respondent Devasthanam Board, the cancellation of patta in the application pending before the Revenue Divisional Officer can independently be decided without influenced by the observations passed by the Civil Court. Thus, according to the respondent Devasthanam, granting of permanent injunction has nothing to do with the present notice issued for closure of business and further Revenue Divisional Officer has not been impleaded as party in the said Suits. Since the issue involved in the Suit is only with regard to interfering with the petitioner's possession and cancellation of patta has nothing to do with the suit.

6.This Court has considered the submissions made by the parties and perused the materials on record.

7. The present writ petitions are filed as against the impugned notice dated 24.09.2024 issued by the third respondent Temple for closure of business in the Giriveedhi. To that extent, a Division Bench of this Court has passed orders in W.P.(MD) Nos.17889 of 2013 etc., batch dated 10.02.2014 as under:



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"11. In view of the pending application, the respondent Municipality is directed to pass final orders granting permission to such of those buildings, like toilets, parking stands etc., which are not constructed for commercial purposes. Insofar as the other commercial buildings are concerned, appropriate orders shall be passed on merits and in accordance with law, leaving it open to the petitioner to work out their remedy before appropriate authority or the Government seeking exemption, if any adverse order is passed....

12..... It is also made clear that no commercial activities of any kind should be permitted either by the petitioner Devasthanam or by the respondent Municipality. The officers undertook as above."

8. In W.P.(MD)No.23598 of 2017, a Division Bench of this Court has passed orders by relying upon the earlier orders in W.P.(MD) Nos.1341 of 2017 and 191 of 2016 dated 16.08.2017, at the instance of the temple and had passed a prohibitory order restraining all the respondents therein from issuing licence/identity cards for street vending in respect of Giriveedhi in Palani. Alleging non-compliance of the said order Cont.P.(MD) No.1671 of 2018 has been filed, wherein this Court has passed series of orders for removal of encroachments and prohibited the running of commercial shops in Giriveedhi. In pursuant to the said order, the Devasthanam Board has also closed their shops in Giriveedhi.



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9. In such circumstances, we do not find any illegality or infirmity in the impugned notice issued by the third respondent Devasthanam Board and the similarly placed shop owners had already closed their business including the Devasthanam Board in pursuant to the earlier directions issued by this Court and running of commercial activities in Giriveedhi would amount to contempt of Court.

10. In the light of the above, the impugned order passed by the third respondent dated 24.09.2024 shall stand confirmed. Considering the fact that the relief prayed for in the Suit is for injunction and both the parties agreed to seek their remedy before the Revenue Divisional Officer, Palani /second respondent herein in the appeal filed by the Devasthanam Board, it is open for both the parties to relegate their remedy in the cancellation of patta filed by the Devasthanam Board before the RDO, Palani. The second respondent / RDO, Palani shall follow the procedure as contemplated under the Rules by deciding the application independently without being influenced by any observations made by this Court and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. Both the parties are also at liberty to



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place all the documents / record in their favour before the second respondent herein.

11. The Writ Petitions stand disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K., J.) (R.V., J.)
16.07.2024

Intex : Yes/No
Internet : Yes/No
Jvm

To

- 1.The District Collector,
Dindigul District.
- 2.The Revenue Divisional Officer,
Palani, Dindigul District.
- 3.The Joint Commissioner,
Executive Officer,
Arulmigu Dhandayuthapaniswamy Thirukovil,
Palani.



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