



W.P(MD)No.17144 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

CORAM:

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

**W.P(MD)No.17144 of 2017
and
W.M.P(MD)Nos.13719 to 13721 of 2017, 19153 of 2017,
145 of 2021 and 20470 of 2022**

P.Sivaram

... Petitioner

VS.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Door No.119, Uthamar Gandhi Road,
Nungampakkam,
Chennai – 600 034.
- 2.The District Collector,
Madurai District,
Madurai – 625 020.
- 3.The Superintendent of Police,
Madurai District,
Alagarkoil Road,
Madurai – 625 007.
- 4.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIDCO Complex,
Kappalur,
Madurai District – 625 008.

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- 5.The Project Director,
National Highways Authority of India,
Plot No.3, Surya Towers,
1st East Street,
K.K.Nagar,
Madurai – 625 020.
 - 6.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
West Chitrai Street,
Madurai – 625 001.
 - 7.S.Sakkarai Ammal,
Executive Officer,
[(i/c) Arulmigu Sastha Ayyanar Temple],
Arulmigu Moolanathasamy Temple,
Thenkarai Village,
Vadipatti Taluk,
Madurai District – 625 221.
 - 8.S.Nirmala,
Inspector of Police [L & O],
Vadipatti Police Station,
Madurai District – 625 221.
 - 9.K.Subburam,
M/s.Temple City Hotels,
S.No.318/1B2, Ayyankottai Village,
Vadipatti Taluk,
Thanichayam Post,
Madurai District – 625 221.
- ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 8 to remove the encroachments over the Temple land in Survey No.299/2 at



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Thanichiyam Village, Vadipatti Taluk, Madurai District and on the abutting National Highway and to hand over the Temple 'land' and 'jewellery' to the custody of the Temple authority of 'Arulmighu Sastha Ayyanar Temple' situated at Ayyankottai Village, Vadipatti Taluk, Madurai District.

For Petitioner	: Mr.S.Chandrasekaran
For Respondent Nos.1, 2 & 6	: Mr.S.P.Maharajan Special Government Pleader
For Respondent No.3	: Mr.R.Meenakshi Sundaram
For Respondent No.4	: Ms.Vijayakumari Natarajan
For Respondent No.5	: Mr.Arul Vadivel alias Sekar
For Respondent No.7	: Mr.S.Manohar
For Respondent No.8	: Mr.S.C.Herold Singh
For Respondent No.9	: Mr.M.Jegadeesh Pandian

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, directing the respondents 1 to 8 to remove the encroachments made in the Temple land in Survey No.299/2 at Thanichiyam Village, Vadipatti Taluk, Madurai District and on the abutting National



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Highway and to hand over the Temple 'land' and 'jewellery' to the custody of the Temple authority of 'Arulmighu Sastha Ayyanar Temple' situated at Ayyankottai Village, Vadipatti Taluk, Madurai District.

2. According to the petitioner, the land comprised in Survey No.299/2, Thanichiyam Village, Vadipatti Taluk, Madurai District, which is classified as a Temple land, has been encroached by the ninth respondent. Therefore, he seeks a direction for the removal of encroachment.

3. The seventh respondent has filed a counter-affidavit, wherein it is stated as follows:

'4. It is further submitted that ninth respondent has encroached 8 feet of the property of the Temple is not correct and there is no encroachment on the Temple property and the Temple property has been properly fenced and if ninth respondent has completed the construction on 20.03.2013 nothing prevented the petitioner to take legal action and the Writ Petition is liable to be dismissed on the grounds of laches. It is humbly submitted that there is no encroachment in the Temple land and the attitude of the petitioner in surveying the property is self-explanatory.

5. It is further submitted that the Temple does not permit any person visiting ninth respondent/Hotel to park their vehicles and



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vehicles coming to the Temple alone are permitted to be parked and the keys of the Temple as averred by the writ petitioner are not with ninth respondent and it is only with the Temple authorities and there is no vested interest on the part of this respondent as averred by the petitioner and the same is invented to file the petition.'

4.Recording the statement made by the seventh respondent, no further orders are necessary as against the seventh respondent. If there is any encroachment on the said Temple land, it is for the petitioner to make a fresh representation to the Joint Commissioner, Hindu Religious and Charitable Endowments Department for taking necessary action as against the person concerned.

5.The other allegation of the petitioner is that the ninth respondent has encroached upon the Highways land.

6.The Highways authority, namely, the fifth respondent, has filed a counter-affidavit, wherein it is stated as follows:

'5.It is submitted that the allegation of petitioner is that the ninth respondent has illegally encroached upon the



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service road to an extent of 15 feet against his own approved building plan which is used partly as building and car parking area. In this regard, the right of way on that spot was measured and found that there is a temporary approach road formed in the channel along the side of the right of way to a length of about 25m by laying 1.5 feet height cement pipe. Except this, there is no other encroachments. As regards this approach road, eviction notice has been issued to the ninth respondent to remove the said approach road.'

7.The learned counsel appearing for the fifth respondent submitted that the fifth respondent has issued a notice to the ninth respondent to remove the encroachment ie., approach road. He further submitted that the police authority, namely, the Inspector of Police, Vadipatti, has not provided police protection for taking action for the removal of the said encroachment. The fifth respondent Highways Department has enclosed a copy of the complaint dated 23.09.2022 addressed to the Inspector of Police, Vadipatti, seeking police protection for removal of the encroachment.

8.The learned Additional Public Prosecutor appearing for the third respondent undertakes that if a fresh complaint is preferred by the



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fifth respondent, the same will be considered and necessary police protection will be granted in accordance with law.

9.Since the eighth respondent has been impleaded in her individual capacity and the said officer has now been transferred, the fifth respondent has to prefer a complaint before the Inspector of Police, Vadipatti seeking police protection. If any such complaint is preferred by the fifth respondent, the Inspector of Police, Vadipatti, shall consider the same and issue necessary police protection for removal of encroachment. We make it clear that the fifth respondent shall also proceed in accordance with law to remove the encroachment.

10.With regard to the handing over of the jewels with the Temple authority is concerned, the seventh respondent in the counter-affidavit, more particularly in paragraph No.7, has stated as follows:

'7.It is further submitted that the Writ Petition by way of Public Interest Litigation is misconceived and the Temple jewels are in the custody of the Temple and one K.Raja alleged in the Writ Petition is nothing to do with the Temple and the Writ Petitioner cannot maintain the Writ



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Petition on assumptions and presumptions and the petitioner has not even stated in the Writ Petition how he reliably learnt that the jewels are in the custody of one K.Raja and the Writ Petition has been filed with a malafide motive and is liable to be dismissed.'

11.In view of the above, no further orders are necessary in this regard.

12.With the above directions and observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
02.01.2024

NCC : Yes / No
Index : Yes / No
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
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