



W.P.No.9367 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

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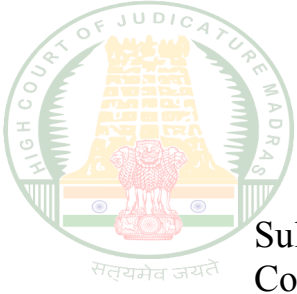
Arulmigu Srimabbaiyan Thirukkivil
Boyar Samudhaya Manjal Kula Makkalsava
Committee (Regn.No.4167)
N.Jaganathan
S/o.Nachimuthu
Vice President
Kurukapalayam
Semmandampalayam
Sulur Taluk
Coimbatore District – 641 668

... Petitioner

Vs.

1. The District Collector
Coimbatore
Coimbatore District
2. The Revenue Divisional Officer
Office of the Revenue Divisional Officer (South)
Coimbatore South
Coimbatore
3. The Tahsildar
Sulur Taluk

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- Sulur
Coimbatore District
4. The Land Revenue Inspector
Karumathampatty
Coimbatore District
5. The Village Administrative Officer
Semmandampalayam
Coimbatore District
6. Subramaniam
S/o.Rangasamy
President
Sri Mayavaperumal Trust
543/8 AVP Layout
Gandhi Nagar
Tiruppur District
7. The Commissioner,
Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Road
(previously Nungambakkam High Road) ,
Chennai – 600 034,
8. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Income Tax Office Building,
Dr.Balasundaram Road, Coimbatore – 641 018
9. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Sulur, Coimbatore District ... Respondents

(R7 to R9 suo motu impleaded vide this order)



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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 5 to take action for removing encroachments and demolishing the unauthorized constructions put up by the 6th respondent blocking the ingress and egress to the petitioner temple, measuring to an extent of 210 sq.meters of land situated at Old S.No.452/2, corresponding New S.No.665/12, Semmandamalayam Village, Sulur Taluk, Coimbatore District classified as Natham Porampoke by considering the representations dated 13.10.2023 and 28.11.2023 to the official respondents.

For Petitioner : Mr.R.Prabakar

For Respondents : Mr.M.S.Arasakumar
Government Advocate for R1 to R5

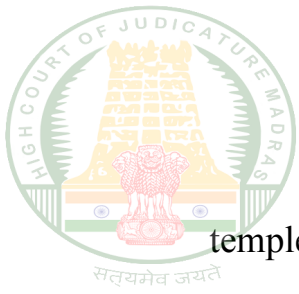
Mr.G.C.Nelson Britto for R6

Mr.N.R.R.Arun Natarajan
Special Govt. Pleader (HR & CE)
for R7 to R9 (impleaded suo motu)

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Subject matter of captioned 'Writ Petition' is a temple which goes by the name 'Arulmigu Mabbaiyan Thirukkivil' situate in Kurukapalayam, Semmandampalayam, Sulur Taluk, Coimbatore District' [hereinafter 'said



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temple' for the sake of brevity, convenience and clarity] and 'land comprised in Old S.No.452/2, corresponding New S.No.665/12 in Semmandampalayam Village, Suler Taluk, Coimbatore District' [hereinafter 'said land' for the sake of convenience].

2. Alleged encroachment in said land by R6 (Mr.Subramaniam, S/o.Mr.Rangasamy) is the central issue in the captioned WP.

3. In the hearing today, Mr.R.Prabakar, learned counsel for writ petitioner, Mr.M.S.Arasakumar, learned Government Advocate for R1 to R5 and Mr.G.C.Nelson Britto, learned counsel for R6 are before this Court.

4. Owing to the limited legal perimeter within which the captioned WP has to perambulate, main WP was taken up and heard out with the consent of all the aforesaid three learned counsel.

5. Before we proceed further, we make it clear that we take judicial notice of the fact that there is no material to demonstrate that said temple is a private temple. This Court has repeatedly held that in the light of sub-section (3) of Section 1 of 'The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of brevity], TN HR & CE Act applies to all Hindu public religious



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institutions and all temples and in the scheme of the Statute, more particularly, definitions vide Section 6 thereat, all temples would qualify as public temples unless exempt under Section 4 of TN HR & CE Act or declared to be a private temple by a competent jurisdictional civil Court. To be noted, 'temple' is defined vide sub-section (20) of Section 6 of TN HR & CE Act. In this view of the matter, we deem it appropriate to implead the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, No.119, Uthamar Gandhi Road, (previously Nungambakkam High Road), Chennai – 600 034, Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, Income Tax Office Building, Dr.Balasundaram Road, Coimbatore – 641 018 and Assistant Commissioner, Tamil Nadu Hindu Religious and Charitable Endowment Department, Sulur, Coimbatore District as R7, R8 and R9 respectively. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader who is before this Court accepts notice for R7 to R9 and learned State counsel also joins the other counsel in the consent for having the main WP heard out.

6. Short facts imperative for appreciating this order are that R6 was visited with a notice dated 24.02.2022 from jurisdictional Revenue



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Inspector; that this notice was under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}; that this notice was assailed by R6 by way of writ petition in W.P. No.5987 of 2022; that this WP along with the WMP thereat came to be disposed of by a Division Bench of this Court vide order dated 17.03.2022 *inter alia* calling upon the jurisdictional Revenue Inspector to consider whether patta can be issued qua said land; that post 17.03.2022 order, after survey and after considering the documents, the jurisdictional Revenue Tahsildar (R3 before us) made proceedings dated 15.09.2022, bearing reference ந.க.எண்:1988/2022/A2; that orders under Section 6 of said 1905 Act are yet to be made; that under such circumstances, captioned WP has been filed in this Court on 11.01.2024 by writ petitioner Trust with a prayer stating that R6 has encroached upon said land by blocking ingress and egress to said temple and that the same deserves to be removed; that learned counsel for R6 disputes this submission and submits that R6 has not committed encroachment.

7.In the aforesaid scenario, we deem it appropriate to write that we are not expressing any view or opinion on the alleged encroachment qua



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said land and the denial of the same by R6. The reason is, we will now be

relegating the matter to proceedings under said 1905 Act or under Section

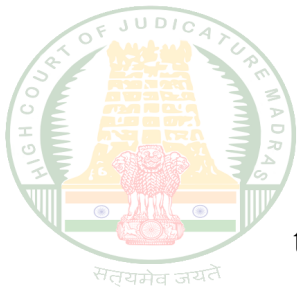
78 of TN HR & CE Act as the case may be.

8.In the light of the narrative, discussion and dispositive reasoning thus far, we make the following order:

i) R7 to R9 shall now appoint a Fit person qua said temple forthwith but in any event within four weeks from today i.e., on or before 18.07.2025. Appointment of Fit person under Section 49(1) of TN HR & CE Act being a transitory provision, further proceedings qua appointment of regular trustee and / or any other proceedings, shall be continued by R7 to R9 on its own merits and in accordance with law, subject to the claim of writ petitioner and R6.

ii) R3 and the jurisdictional Revenue Inspector shall now put the Fit person on notice before proceeding further;

iii) All rights and contentions of writ petitioner Trust as well as R6, more particularly Sri Mayavaperumal Trust are preserved for staking their claims qua administration of said



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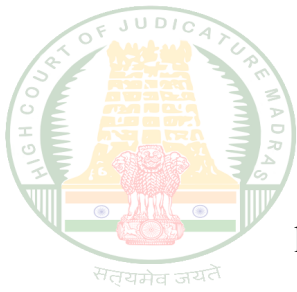
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temple in a manner known to law under TN HR & CE Act. All such claims shall be considered by R8 or any other authority concerned under TN HR & CE Act on its own merits and in accordance with law. We express no opinion on this aspect also;

iv) After putting Fit person (to be appointed) on notice if encroachment in temple land is found, proceedings under Section 78 of TN HR & CE Act shall be commenced, adjudicated upon and concluded;

v) If the above is not the scenario, proceedings already commenced under said 1905 Act shall be carried to its logical end and given a closure on its own merits;

vi) Though obvious for the sake of specificity, we make it clear that all rights and contentions of writ petitioner, R6, members of the two Trust viz., Kurukupalayam Arulmiku Sri Mappaiyan Thirukovil Boyar Community Manjalkulamakkal Worshiper's Trust and Sri Mayavaperumal Trust and any other person are left open to stake claim in the administration as well as all questions regarding alleged encroachment and denial are



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left open;

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vii) The above exercise shall be concluded by the authorities concerned as expeditiously as the business of official respondents would permit.

Captioned WP disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

20.06.2025

Index : Yes / No

Neutral Citation : Yes / No
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R.SAKTHIVEL, J.,**

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