



W.P.No.17169 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.17169 of 2025

R.Sekar

... Petitioner

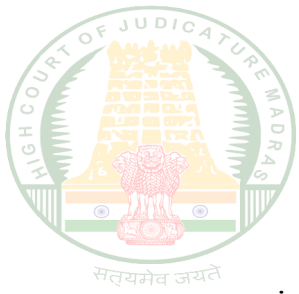
Vs.

1. The District Collector
Office of the District Collector
Vellore, Vellore District
2. The Revenue Divisional Officer/Sub-Collector
Office of the Revenue Divisional Officer
Gudiyatham
Vellore District
3. The Tahsildar
Tahsildar Office, K.V.Kuppam
Vellore District
4. The Assistant Engineer
Water Resources Department
Water Resources Section
Gudiyatham, Vellore District

5. Ashokkumar

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 4 to take necessary steps against 5th respondent for encroaching of the water way and thereby remove the encroachments in respect of the temple called Sri Gangaianman Temple, Sri Nava Gragah Temple and Rajakalianman Temple situate at S.No.151 of K.A.Mottur Village, Keezhalathur Post, K.V.Kuppam Taluk, Vellore District on the basis of representation dated 13.01.2025.

For Petitioner : Mr.P.M.Jayachandran

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4

ORDER

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

'S.No.151 of K.A.Mottur Village, Keezhalathur Post, K.V.Kuppam Taluk, Vellore District' [hereinafter 'said land' for the sake of brevity and convenience] is the subject matter of the captioned writ petition.



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2. Mr.P.M.Jayachandran, learned counsel for writ petitioner before us

alleges encroachment qua said land and seeks removal of the same.

3. Learned counsel submits that repeated representations have not yielded result and that has necessitated the captioned WP.

4. Issue notice to official respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader, accepts notice for officials respondents (R1 to R4) and submits that R5 (private respondent) had earlier come to this Court by way of W.P.No.37120 of 2024 etc., batch and the same came to be disposed of by this Court in and by a common order dated 12.12.2024. On learned State counsel pointing out, we ferreted out the order from the official website and a scanned production of the same is as follow:



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W.P. Nos.37115, 37118 and 37120 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.12.2024



CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. Nos.37115, 37118 and 37120 of 2024
and
W.M.P. Nos.40108, 40119 and 40120 of 2024

P. Ashok Kumar

Petitioner in all WPs

vs.

1. The Revenue Inspector
K.V. Kuppam
K.V. Kuppam Taluk
Vellore District

2. The Tahsildar
K.V. Kuppam Taluk
K.V. Kuppam
Vellore District

3. The Commissioner
Hindu Religious and Charitable
Endowments Department
No.119, Uthamar Gandhi Salai
(previously Nungambakkam High Road)
Nungambakkam
Chennai 600 034

4. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
308 Arcot Road
Kakidapattarai, Vellore 632 012

Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India

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W.P. Nos.37115, 37118 and 37120 of 2025



seeking writ of certiorarified mandamus calling for the records on the file of the first respondent culminated in under Section 7 Act – III Tamil Nadu Land Encroachment Act, 1905 dated 18.10.2024 in respect of the temples called Sri Gangaianmman Temple, Sri Rajakaliamman Temple and Sri Navagraha (Sabthamathakal) temple, respectively, situate at S.No.151 of K.A. Mottur Village, Keezhalathur Post, K.V. Kuppam Taluk, Vellore District and quash the same and consequently, restrain the respondents from demolishing or removing the temples from S.No.151 of K.A. Mottur Village, Keezhalathur Post, K.V. Kuppam Taluk, Vellore District.

For petitioner
in all WPs

Mr. N. Sampath

For RR 1 & 2
in all WPs

Mr. T.K. Saravanan
Government Advocate

For RR 3 & 4
in all WPs

Mr. N.R.R. Arun Natarajan
Special Govt. Pleader (H.R. & C.E.)

COMMON ORDER

(made by M. SUNDAR, J.)

Captioned 'writ petitions' (for brevity 'WPs') pertain to 'land comprised in Survey No.151 in K.A. Mottur Village, Keezhalathur Post, K.V. Kuppam Taluk, Vellore District' ('said land' for the sake of clarity and convenience).

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W.P. Nos.37115, 37118 and 37120 of 2



2. The petitioner in these three writ petitions is the same, *i.e.*,

P.Ashok Kumar. Case of the petitioner is that said land belongs to four temples, *viz.*, 'Sri Valamburi Selva Vinayagar Temple, Sri Rajakaliamman Temple, Sri Gangaianman Temple and Bajanai Kovil' collectively referred to as 'said temples'. It is submitted that all four temples are situate in K.A. Mottur Village, Keezhalathur Post, K.V. Kuppam Taluk, Vellore District.

3. Learned counsel for writ petitioner submits that said land belongs to said temples and action has been initiated under Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) which will hereinafter be referred to as 'said 1905 Act'.

4. In the light of sub-section (3) of Section 1 of 'Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959' ('TNHR & CE Act' for the sake of brevity), all temples are public temples, unless an exemption is granted under Section 4. In the case on hand, there is no material in the case file saying that said temples have been granted exemption. In other words, *i.e.*, to put it differently, said temples are clearly public temples. This means that the control and administration of said temples would vest in the Tamil Nadu Hindu Religious and Charitable Endowments Department

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W.P. Nos.37115, 37118 and 37120 of 2025



(TNHR & CE Department' for the sake of brevity). Therefore, we deem ..

appropriate to *suo motu* implead the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, No.119, Uthamar Gandhi Salai (previously Nungambakkam High Road), Chennai - 600 034 and the Joint Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, 308 Arcot Road, Kagithapatturai, Vellore 632 012, as respondents 3 and 4 respectively, in this writ petition. We do so.

5. Before we proceed further, we make it clear that it has been repeatedly held that an idol in a temple is in the status of a minor and Court is its guardian. It has also been held that Courts are *custodia legis* qua temple properties and the lead case is **A.A. Gopalakrishnan's case [A.A.Gopalakrishnan vs. Cochin Devaswom Board and others](2007) 7 SCC 482]**. The most relevant paragraph is as follows:

'10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their trustees/archakas/shebait/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of "fences eating the crops" should be dealt with sternly. The Government, members or trustees

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of boards/trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation.¹

(underlining made by this Court for ease of reference)

6. Be that as it may, without dilating more on this, it will suffice to say that this Court, being guardian/*custodia legis* of temple properties, deems it appropriate to entertain the captioned WPs.

7. Issue notice.

8. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for respondents 1 and 2. Mr. N.R.R. Arun Natarajan, learned Special Government Pleader accepts notice for respondents 3 and 4.

9. In the light of the narrative thus far and in the light of the obtaining position *qua* the temple properties, we deem it appropriate to say that respondents 3 and 4 or any other subordinate who is Executive Officer or Fit Person for said temples should be put on notice under said 1905 Act. In other words, we make it clear that respondent 3 has to be put on notice and it is open to third respondent to forward the notice to any of his

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subordinates in Tamil Nadu Hindu Religious and Charitable Endowment Department so as to enable a suitable reply being sent when show caused under Section 7. Based on the reply, obviously, an order under Section 6 has to be made.

10. This Court has repeatedly held that said 1905 Act is a self contained Code. The reason *inter alia* is that there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order (considering the cause shown). The order under Section 6 is appealable under Section 10 (District Collector is the appellate authority) and there is a provision for further revision to the Government under Section 10-A (Section 10-A(3) to be precise) of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression.

11. We make it clear that any further action *qua* said land would be subject to / depending upon the orders to be made after respondents 3 and 4 are show caused in the aforesaid manner.

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12. We further make it clear that the rights and contentions of all concerned remain preserved for ensuing proceedings.

13. Owing to narrative, discussion and dispositive reasoning thus far, *certiorari* limb of the prayer is not answered in the affirmative but it is circumscribed in the manner set out *supra*. As regards the *mandamus* limb, directive given *supra inter alia qua* show causing respondents 3 and 4 would suffice.

14. *Ergo*, sequitur is captioned three main WPs are disposed of in the aforesaid manner. Consequently, captioned three WMPs thereat are disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
12.12.2024

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NC : Yes/No
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W.P. Nos.37115, 37118 and 37120 of 2024

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M. SUNDAR, J.
and
K. RAJASEKAR, J.
cad

To

1. The Revenue Inspector
K.V. Kuppam
K.V. Kuppam Taluk
Vellore District
2. The Tahsildar
K.V. Kuppam Taluk
K.V. Kuppam
Vellore District
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308 Arcot Road
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The above order speaks for itself.

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6. Adverting to the aforementioned judicial order, learned State counsel submits that action has already been kick started under 'Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007)' {hereinafter 'Tanks Act' for the sake of convenience, clarity and brevity} and Form-III notice dated 02.03.2020 has been issued.

7. Learned counsel for writ petitioner submits that this douses the anxiety of the writ petitioner. Therefore, we dispense with notice to private respondent (R5) and take up the main WP with the consent of learned counsel for writ petitioner and learned State counsel.

8. The proceedings which have already been kick started vide Tanks Act will continue on its own merits and in accordance with law and in this regard we make it clear that all the rights and contentions of private respondent (R5) and/or any other person concerned in the proceedings will stand preserved and this order will neither serve as a impetus nor impede such proceedings.



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In the light of the narrative thus far, recording the stated position of

learned State counsel, captioned WP is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(H.C.,J.)

02.06.2025

Index : Yes / No

Neutral Citation : Yes / No

gpa

To

1. The District Collector
Office of the District Collector
Vellore, Vellore District
2. The Revenue Divisional Officer/Sub-Collector
Office of the Revenue Divisional Officer
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Water Resources Section
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

gpa

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