



WEB COPY



W.P.No.24335 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.24335 of 2025

Joseph Charles

... Petitioner

Vs.

- 1.The District Collector,
Chennai, Chennai District.
- 2.The District Revenue Officer,
Ripon Building, Chennai – 600 003.
- 3.The Revenue Divisional Officer,
Ambattur Division,
Gandhi Nagar, Anna Nagar West Extension,
Chennai – 600 040.
- 4.The Tahsildar,
Taluk Office Ambattur,
Tiruvallur High Road, Gandhi Nagar,
Ambattur, Chennai – 600 053.
- 5.The Commissioner,
The Greater Chennai Corporation,
Ripon Building, Chennai – 600 003.



W.P.No.24335 of 2025

6.The Zonal Officer,
The Chennai Corporation,
Zone-7, Ambattur, Tiruvallur High Road,
Ambattur, Chennai – 600 053.

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

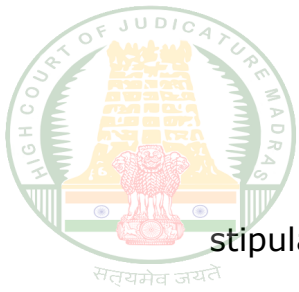
8. The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowments Department,
9th Floor, E.V.K.Sampath Building,
D.P.I. Complex, College Road,
Chennai-600 006.

... Respondents

(R7 and R8 suo motu impleaded vide order
dated 04.07.2025 made in
W.P.No.24335 of 2025)

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents 2 to 5
to immediately remove the unauthorised permanent structure in the
form of a temple, namely Arulmigu Shri Navasakthi Vinayagar Alayam
in Old Survey No.330, Town Survey No.47, situated at Tottenham
Street, VGN Ambattur, Chennai, has been illegally constructed
encroaching upon a public road and canal, consequently direct the
respondents to restore the public road and canal to its original
condition, ensuring free and unhindered access for the residents within

Page Nos.2/10



W.P.No.24335 of 2025

stipulated period fixed by this Court.

WEB COPY

For Petitioner : Mr.D.Murugan
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4
Mr.D.B.R.Prabhu,
Standing Counsel for R5 and R6
Mr.S.Ravichandran,
Additional Government Pleader
(H.R. & C.E.) for R7 & R8

ORDER

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

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with a Removal of Encroachment (RoE) prayer. To put it differently, the prayer is to mandamus the respondents to take steps to remove the alleged encroachment in Old Survey No.330, Town Survey No.47, situate at Tottenham Street, VGN Ambattur, Chennai, which according to the writ petitioner is a public road and canal.

2. Mr.D.Murugan, learned counsel for writ petitioner submits that the alleged encroachment in the aforereferred 'Old Survey No.330, Town Survey No.47, situate at Tottenham Street, VGN Ambattur, Chennai' (hereinafter 'said land' for the sake of convenience and



W.P.No.24335 of 2025

clarity) is by way of construction of a temple which goes by the name 'Arulmigu Shri Navasakthi Vinayagar Alayam' (hereinafter 'said temple' for the sake of convenience and clarity).

3. At the outset, we find that no one on behalf of said temple has been arrayed as respondent. Therefore, we suo motu implead the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, No.119, Uthamar Gandhi Salai (previously Nungambakkam High Road), Nungambakkam, Chennai - 600 034 as R7 and the Assistant Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department, 9th Floor, E.V.K.Sampath Building, D.P.I. Complex, College Road, Chennai-600 006 as R8. Registry to carry out necessary and consequential amendments in the case file forthwith but in any event before uploading/before issue of certified copy.

4. Learned counsel for writ petitioner submits that repeated requests to official respondents qua RoE (including a legal notice dated 26.03.2025) from the writ petitioner have not yielded results and that has necessitated the captioned WP with a mandamus prayer.



W.P.No.24335 of 2025

5. Issue notice.

WEB COPY

6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R4, Mr.D.B.R.Prabhu, learned Standing Counsel accepts notice for R5 and R6 and Mr.S.Ravichandran, learned Additional Government Pleader (H.R. & C.E.) accepts notice for R7 and R8.

7. This Court is informed that a Fit Person or Trustee has not been appointed by 'Tamil Nadu Hindu Religious and Charitable Endowments Department' (hereinafter 'TNHR & CE Department' for the sake of convenience and clarity) until now.

8. Besides the obtaining position of law, in the case on hand, there is a important reason as to why this Court has taken judicial notice qua temple by resorting to Section 49 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [Tamil Nadu Act 22 of 1959]' {hereinafter 'TNHR & CE Act' for the sake of brevity}. The law is well settled that any alleged encroacher should be put on notice and given an opportunity qua RoE proceedings. In the case on hand, said temple is the alleged encroacher. This Court, in this order, does not

Page Nos.5/10



W.P.No.24335 of 2025

express any view or opinion about the allegation but whether there is encroachment will come to light only after the survey and post survey, report being drawn up by R4. At the time of survey, it is important that said temple is represented. Likewise, post survey, if any encroachment is noticed and if RoE proceedings are commenced, it is important that said temple is put on notice and given an opportunity. If said temple is put on notice and given an opportunity, it has to be represented by the human agency. In this regard, this Court reminds itself of the obtaining position that idols in temple are in the status of minors and Courts are guardians.

9. In the light of the aforereferred obtaining legal position, we direct R8 to appoint a Fit Person for said temple under Section 49 of TNHR & CE Act forthwith.

10. To be noted, the aforereferred directive as regards appointment of Fit Person qua said temple is given by taking judicial notice of the factual position before us and with a view to ensure that said temple is represented at the time of survey and during possible RoE proceedings about which there shall be allusion infra.



W.P.No.24335 of 2025

11. In the light of the narrative and discussion thus far, the following order is made:

11.1 R4 shall conduct a survey under the supervision of R2 after putting on notice writ petitioner, Fit Person for said temple to be appointed or any other person concerned in this matter and such survey shall be conducted as expeditiously as the business of R4 and R2 would permit but in any event within a period of eight weeks from today i.e., on or before 29.08.2025;

11.2 Post survey, a survey report shall be drawn up. In the survey report, if any encroachment is found, appropriate action under applicable law, be it 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} or any other statute shall be commenced by the official respondent concerned within a period of eight weeks from 29.08.2025 i.e., on or before 24.10.2025;

11.3 On being show caused/given an opportunity qua said temple and/or any other alleged encroacher, all the rights and contentions of said noticees are preserved



WEB COPY



W.P.No.24335 of 2025

as we have not expressed any opinion or view one way or the other about alleged encroachment. To be noted, this is the safety valve which we have put in place qua said temple and we have taken up the captioned main WP in the Admission Board with the consent of learned counsel on both sides;

11.4 Removal of encroachment commenced under appropriate/ applicable statute on or before 24.10.2025 shall be continued and concluded by carrying it to its logical end as expeditiously as the business of official respondents would permit.

12. Captioned main WP is disposed of in the aforesaid manner.

There shall be no order as to costs.

(M.S.,J.)

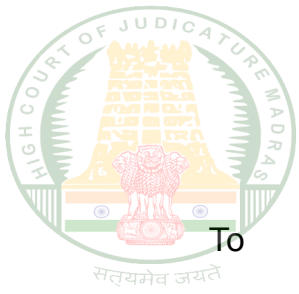
(H.C.,J.)

04.07.2025

Index : Yes / No

Neutral Citation : Yes / No

mmi



W.P.No.24335 of 2025

To

WEB COPY

- 1.The District Collector,
Chennai, Chennai District.
- 2.The District Revenue Officer,
Ripon Building, Chennai – 600 003.
- 3.The Revenue Divisional Officer,
Ambattur Division,
Gandhi Nagar, Anna Nagar West Extension,
Chennai – 600 040.
- 4.The Tahsildar,
Taluk Office Ambattur,
Tiruvallur High Road, Gandhi Nagar,
Ambattur, Chennai – 600 053.
- 5.The Commissioner,
The Greater Chennai Corporation,
Ripon Building, Chennai – 600 003.
- 6.The Zonal Officer,
The Chennai Corporation,
Zone-7, Ambattur, Tiruvallur High Road,
Ambattur, Chennai – 600 053.
- 7.The Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowments Department,
No.119, Uthamar Gandhi Salai
(previously Nungambakkam High Road),
Nungambakkam, Chennai - 600 034.
8. The Assistant Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowments Department,
9th Floor, E.V.K.Sampath Building,
D.P.I. Complex, College Road,
Chennai-600 006.



WEB COPY



W.P.No.24335 of 2025

**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

mmi

W.P.No.24335 of 2025

04.07.2025