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W.P.No.24245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE T. VINOD KUMAR

W.P. No.24245 of 2024 & W.M.P.No.26493 of 2024

T.M. Thangavel

Petitioner

vs.

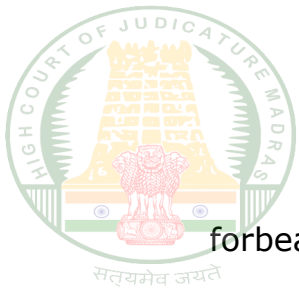
1. The District Collector
Collectorate
Erode District
2. The Divisional Engineer
Highways
Moolapalayam
Erode
3. The Executive Engineer
State Highways (C & M), Sathy Road
Gobichettipalayam
Erode
4. The Assistant Divisional Engineer
Highways Department (C & M)
Sathyamangalam

5. N.M. Ganesan

Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a writ of mandamus directing the 2nd respondent to
dispose of the petitioner's representation dated 08.08.2024 and

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forbearing the respondents from evicting the petitioner's Arulmigu Muthumariamman Temple in respect of property which is situated at S.F.No.7/1 and S.F.No.7/2 Thimmaianpudur Village, Erode District within the limits of Ariyappampalayam Municipality, Erode District.

For petitioner	Mr. P. Saravanan
For RR 1 to 4	Mr. T.K. Saravanan Additional Government Pleader
For R5	Mr. U. Gokulakrishnan

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is predicated on a representation dated 08.08.2024 sent by writ petitioner to R2 *inter alia* making a plea to refrain from evicting 'Arulmigu Muthumariamman Temple situate in S.F.No.7/1 and S.F.No.7/2, Thimmaianpudur Village, Erode District within the limits of Ariyappampalayam Municipality, Erode District' [hereinafter 'said lands' for the sake of convenience and clarity].

2. Prior to the captioned main WP, R5 (N.M. Ganesan) had come to this Court *vide* W.P.No.13021 of 2024 with a Removal of Encroachment (RoE) prayer *qua* said lands and this writ petition came



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to be disposed of by another Hon'ble Division Bench in which one of us (M. SUNDAR, J.) was a member, *vide* order dated 14.06.2024 reported in NC 2024:MHC:2372 and a scanned reproduction of the same is as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.13021 of 2024

N.M.Ganesan

S/o.Marimuthu

.. Petitioner

Vs.

1. The District Collector
O/o. of the District Collector
Erode District Collectorate Buildings
Perundurai Road
Erode - 638 011.
2. The District Revenue Officer
Erode District Collectorate Buildings
Perundurai Road
Erode - 638 011.
3. The Thasildar
Sathyamangalam Taluk
Sathyamangalam.
4. The Executive Officer
Ariappampalayam
Town Panchayat (Special Grade)
Ariappampalayam
Erode - 638 402.
5. The Divisional Engineer



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Highways
Moolapalayam
Erode.

6. The Assistant Divisional Engineer
State Highways (C & M)
Near Easwaran Koil
Sathy Road
Sathyamangalam
Erode - 638 401.
7. The Executive Engineer
State Highways (C & M)
Sathy Road
Gobichettipalayam
Erode.
8. The Superintending Engineer
TNEB Sathy Road
Gobichettipalayam
Erode.
9. The Divisional Engineer
TNEB
Sathyamangalam
Erode - 638 402.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider petitioner's representation dated 22.09.2023 and to take appropriate action towards the eviction of any individual(s) who were illegally encroached and building a temple without following any Government norms into the Government lands owned by the respondents 4 to 6 in the land comprised in Survey Nos.7/1 and 7/2, Thimmaianpudur Village, Erode District within the limits of Ariyappampalayam Municipality, demolish the illegal structures put up therein and recover the lands within the time.



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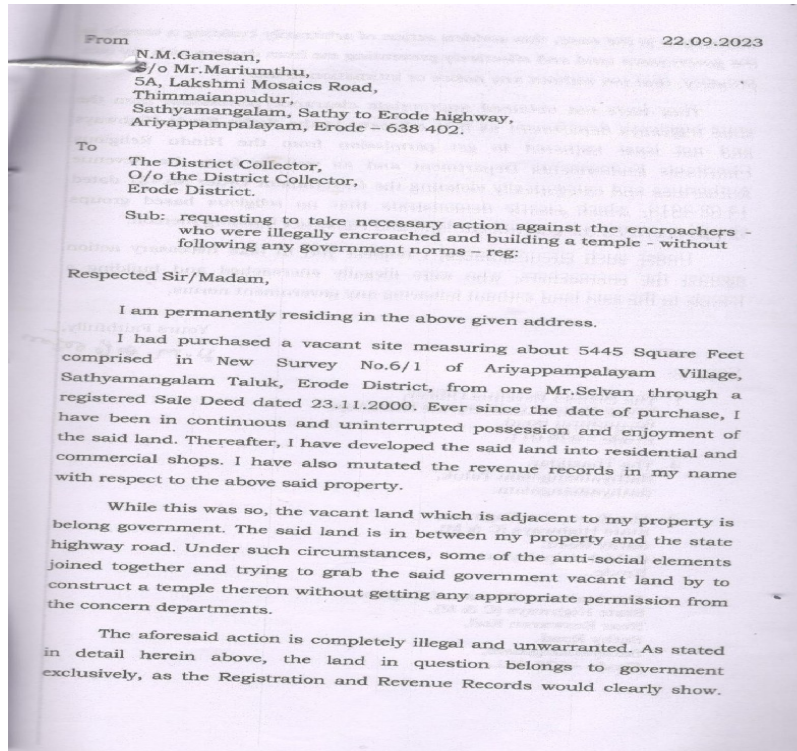
For Petitioner : Ms.Manne Ramya
for Ms.M.Anupriya
For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

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

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed alleging encroachment in 'Government lands being S.Nos.7/1 and 7/2 in Thimmaianpudur Village, Erode District' {hereinafter 'said land' for the sake of brevity}.

2. Ms.Manne Ramya, learned counsel representing counsel on record for writ petitioner, advertng to writ affidavit, more particularly, paragraph No.7 thereat submits that said land is Highways Land and that Highways Department is bound to remove the same. It is also a case of writ petitioner that a representation dated 22.09.2023 has been sent and a scanned reproduction of the same as placed before this Court is as follows:





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While such is the case, this sudden action of arbitrarily building a temple in the government land and effectively preventing me from dealing with my own property, that too without any notice or intimation to me.

They have not obtained appropriate clearance/permission from the state highways department as it is adjacent to the Sathy Erode Highways and not least bothered to get permission from the Hindu Religious Charitable Endowments Department and as well as from the Revenue Authorities and categorically violating the Government Order No.437 dated 13.09.2010; which clearly demonstrate that no religious based groups should encroach the government land and construct building thereon.

Under such circumstances, I request you to take necessary action against the encroachers, who were illegally encroached and building a temple in the said land without following any government norms.

Yours Faithfully,

P. M. S. S.

Copy to:

1. The District Revenue Officer,
Erode District Collectorate Buildings,
Perundurai Road,
Erode - 638 011.
2. The Thasildar,
Sathyamangalam Taluk,
Sathyamangalam.
3. The Executive Engineer,
State Highways (C & M),
Sathy Road,
Gobichettipalayam,
Erode,.
4. The Assistant Divisional Engineer,
State Highways (C & M),
Near Eeswaran Koil,
Sathy Road,
Sathyamangalam,
Erode - 638 401.

3. Issue notice to respondents.

4. Mr.C.Selvaraj, learned Additional Government Pleader accepts notice for all nine respondents.

5. Learned State counsel, adverting to proceedings dated 12.01.2024 bearing reference Na.Ka.5877/2023/A3 made by jurisdictional Tahsildar i.e., Tahsildar, Sathyamangalam, Erode District submits that said



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land belongs to Highways Department and it is governed by 'The Tamil Nadu Highways Act, 2001' {hereinafter 'said Act' for the sake of brevity}.

6. This Court is acutely conscious that alleged encroachers have not been made parties to WP and that they are not before this Court. However, as there would be a directive to Highways Department to act in accordance with said Act, we are of the view that adequate safety valve is put in place as the same is statutorily inbuilt. This is owing to the language in which clause (ii) of sub-section (2) of Section 28 of said Act is couched. To be noted, Section 28(2)(ii) reads as follows:

28. Prevention of encroachment.-

(1)

(2)

(i)

(ii) remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that may representation received within the time-limit shall be considered by the authority or officer concerned before passing final orders.'

{underlining made by this Court for ease of reference}

7. The above means that alleged encroachers have to be issued show cause notice, given an opportunity to show cause, the same should be considered and if any representation is received by authority concerned in the *interregnum* i.e., within time frame qua show cause notice that also has to be considered by authority before passing final orders.

8. Therefore, there is adequate safety valve qua opportunity to alleged encroachers.

9. In the light of the narrative thus far and in the light of aforementioned obtaining legal position, without expressing any view or opinion on the merits of the matter, we direct respondents 5 to 7 to act on aforementioned 22.09.2023 representation strictly in accordance with said Act and more particularly, aforementioned provision of said Act which has been adverted to.



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10. Aforementioned exercise shall be completed by R5 to R7 as expeditiously as the business of R5 to R7 would permit but in any event within eight weeks from today i.e., by 09.08.2024.

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

(M.S.,J.) (K.G.T.,J.)
14.06.2024

Index : Yes / No

Speaking

Neutral Citation : Yes

mk

P.S.

Though captioned WP is disposed of, Registry is directed to list the captioned WP under the cause list caption 'FOR REPORTING COMPLIANCE' on 16.08.2024.'

3. Learned State counsel, adverting to the earlier order, submits that proceedings under 'the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' [hereinafter 'TN Highways Act' for the sake of brevity] were kickstarted and the encroachment has since been removed on 04.03.2025. It is also brought to our notice that R5 (private respondent) filed a contempt petition being Cont.Petn.No.3919 of 2024 alleging noncompliance of 14.06.2024 order in W.P.No.13021 of 2024 and this contempt petition came to be disposed of by another Hon'ble Division Bench in which one of us (M. SUNDAR, J.) was a member *vide* order dated 10.03.2025, a scanned reproduction of which is as follows:



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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

Contempt Petition No.3919 of 2024

N.M.Ganesan

Son of Mr.Marimuthu

... Petitioner

vs.

1. Mr.Kangatharan

The Divisional Engineer

Highways

Moolapalayam

Erode

2. Mr.Soundhar

The Assistant Divisional Engineer

State Highways (C& M)

Near Eeswaran Koil

Sathy Road, Sathyamangalam

Erode – 638 401

3. Mr.Murugesan

The Executive Engineer

State Highways (C & M)

Sathy Road

Gobichettipalayam

Erode

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondents for Contempt of Court for having not complied with the orders of this Court dated 14.06.2024 made in W.P.No.13021 of 2024.



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For Petitioner : Mr.U.Gokulakrishnan

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ORDER

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

When the contempt petition was taken up, Mr.U.Gokulakrishnan, learned counsel on record for the contempt petitioner submitted that the contempt petition is not pressed, saying so, learned counsel has made an endorsement in the case file and a scanned reproduction of the same is as follows:

The orders of this Hon'ble Court
was complied by the Respondents herein
on 04.03.2025. Therefore this
Hon'ble Court may be pleased to
close the contempt proceedings or
permit me to withdraw the petition.

[Signature]
10/3/25
Counsel for Respondents

2. In the light of the narrative thus far, captioned contempt petition is disposed of as closed/not pressed. There shall be no order as to costs.

(M.S.,J.)(K.G.T.,J.)
10.03.2025'

4. The narrative thus far makes it clear that the alleged encroachment has since been removed by resorting to Section 28 of the TN Highways Act. However, in this regard, learned counsel for



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writ petitioner submits that writ petitioner on being visited with a 'show cause notice' (SCN) under Section 28, sent a representation (in response to SCN) but order has not been made by the Administrator *vide* proviso to Section 28(2)(ii) of the Tamil Nadu Highways (Amendment) Act, 2024 (Act 11 of 2024).

5. Considering the limited scope of the captioned main WP and the remit of the matter, we leave open this question and preserve all the rights and contentions of writ petitioner to initiate legal proceedings and seek remedy that may include damages/restoration that may be available to the writ petitioner. It is made clear that if such proceedings are initiated by writ petitioner, all the rights and contentions of State will also stand preserved.

6. Captioned main WP stands disposed of recording the obtaining position that alleged encroachment has since been removed. Consequently, captioned writ miscellaneous petition stands closed. There shall be no order as to costs.

(M.S., J.) (T.V.K., J.)
31.07.2025

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M.SUNDAR, J.

and

T.VINOD KUMAR, J.

cad

To

1. The District Collector
Collectorate
Erode District
2. The Divisional Engineer
Highways
Moolapalayam
Erode
3. The Executive Engineer
State Highways (C&M), Sathy Road
Gobichettipalayam
Erode
4. The Assistant Divisional Engineer
Highways Department (C&M)
Sathyamangalam

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31.07.2025