



W.P.No.26945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.07.2025

CORAM

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

W.P.No.26945 of 2022
&
W.M.P.No.26153 of 2022

K.Murugan

... Petitioner

vs.

1. The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai - 600 003
2. The Assistant Engineer
Division 168
Zone 13
Adayar, Chennai - 600 020
3. The Commissioner
Hindu Religious and Charitable Endowment Department
119, Uthamar Gandhi Road
Thousand Lights West
Nungambakkam, Chennai - 600 034



W.P.No.26945 of 2022

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4. The Executive Officer
Soundereswarar Koil
17, Brahmin Street
Saidapet, Chennai - 600 018

5. Govindammal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 and 4 to take appropriate action to remove the encroachments made by the fifth respondent on public passage, situated in Eastern side to Western side, measuring 12 feet width and rain water storm channel at Chetti Thottam, Alandur Road, Saidapet, Chennai - 600 015 and to restore the said site to its original position at the cost of the fifth respondent.

For petitioner : Mr.G.Mutharasu

For Respondents : Ms.V.Soundarya
for Mr.D.B.R.Prabhu
Standing counsel
Chennai Corporation for R1 and R2

Mr.K.Karthikeyan
Government Advocate for R3 & R4

No appearance for R5

ORDER

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

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed with a 'Removal of Encroachment' ['RoE'] prayer.

Page Nos.2/10



W.P.No.26945 of 2022

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2. Mr.G.Mutharasu, learned counsel for writ petitioner, Ms.V.Soundarya, learned counsel representing Mr.D.B.R.Prabhu, learned Standing counsel for 'Greater Chennai Corporation' ['GCC" for the sake of brevity] for R1 and R2, Mr.G.Karthikeyan, learned Government Advocate for 'Tamil Nadu Hindu Religious and Charitable Endowment Department' ['TN HR & CE Dept.' for the sake of convenience] for R3 and R4 are before us. As regards R5 (private respondent), according to writ petitioner, R5 is an alleged encroacher, notice was ordered by predecessor Hon'ble Division Bench to R5 on 06.10.2022, R5 has been duly served, name and address of R5 as in the cause title are shown in the cause list but none appears either in the physical Court or on the 'VC' ['Videoconferencing'] platform. We are informed by the Registry that R5 has not chosen to enter appearance through any counsel in spite of being duly served.

3. Learned counsel for writ petitioner submits that it is a case of encroachment in temple land. It is also submitted that land belonging to one 'Sounderaswarer Kovil, Saidapet, Chennai - 18' [hereinafter 'said temple' for the sake brevity] has been encroached. Learned counsel adverting to representations including an e-mail sent on 22.10.2021 submits



W.P.No.26945 of 2022

that Executive Officer of said Temple has been put on notice about alleged encroachments but there is inaction and that necessitated the captioned WP.

4. As regards encroachments in said temple, a mechanism has been put in place under Section 78 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], which reads as follows:

'78. Encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers. -

(1) Where the Assistant Commissioner having jurisdiction either suo motu or upon a complaint made by the trustee has reason to believe that any person has encroached upon (hereinafter in this section referred to as "encroacher") any land, building, tank, well, spring or water-course or any space wherever situated belonging to the religious institution or endowment (hereinafter referred to as the "property"), he shall report the fact together with relevant particulars to the Joint Commissioner having jurisdiction over the division in which the religious institution or endowment is situated.

Explanation. - For the purpose of this section, the expression "encroacher" shall mean any person who unauthorisedly occupies any tank, well, spring or water-course or any property and to



include -

(a) any person who is in occupation of property without the approval of the competent authority (sanctioning lease or mortgage or licence); and

(b) any person who continues to remain in the property after the expiry of termination or cancellation of the lease, mortgage or licence granted to him.

(2) Where on a perusal of the report received by him under sub-section (1), the Joint Commissioner finds that there is a prima facie case of encroachment, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified on the notice should not be made. A copy of the notice shall also be sent to the trustees of the religious institution or endowment concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) Where, after considering the objections if any, of the encroacher received during the period specified in the notice referred to in sub-section (2) and after conducting such inquiry as may be prescribed, the Joint Commissioner is satisfied that there has been an encroachment, he may by order and for reasons to be recorded require the encroacher to remove the encroachment and deliver possession of the property (land or building or space) encroached upon to the trustee before the date specified in such order.



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W.P.No.26945 of 2022

(5) During the pendency of the proceeding, the Joint Commissioner shall order the encroacher to deposit such amount as may be specified by him in consideration of the use and occupation of the properties in question in the manner prescribed.'

5. Mr.Karthikeyan, learned Government Advocate for TN HR & CE Dept. submits that proceedings under aforesaid Section 78 of TN HR & CE Act will be kick started as expeditiously as the business of official respondents concerned permit but in any event within four weeks from today i.e., on or before 04.08.2025.

6. As there is a reference to rain water storm channel also, we make it clear that if the need arises, it is open to GCC to initiate action under 'The Tamil Nadu Urban Local Bodies Act, 1998 (Act 9 of 1999)' (hereinafter 'TNULB Act' for the sake of convenience and clarity) by issuing SCN to alleged encroacher/s under Section 128 of TNULB Act.

7. This Court makes it clear that the contentions of R5 and alleged encroacher and/or any other person who may be show-caused /put on notice



W.P.No.26945 of 2022

vide proceedings under Section 78 of TN HR & CE Act and /or under
Section 128 of TNULB Act and / or any appropriate/applicable Statute
stand preserved and all those contentions shall be considered on its own
merits and in accordance with law in the proceedings by the Appropriate
Authorities.

8. In the light of an order of interim injunction granted by Hon'ble predecessor Bench, we make it clear that R5 shall maintain *status-quo*. This means that no further construction shall be put up. Axiomatically, as regards removal of alleged encroachment, the same will be subject to outcome of proceedings under Section 78 of TN HR & CE Act and /or Section 128 of TNULB Act and / or appropriate/applicable Statute.

9. If GCC is to initiate proceedings, the same shall also be commenced within four weeks from today i.e., on or before 04.08.2025.



W.P.No.26945 of 2022

Captioned WP disposed of in the aforesaid manner. Captioned WMP

ordered in terms of *Status-quo* order about which there is allusion supra.

There shall be no order as to costs.

[M.S., J.]

[H.C., J.]

07.07.2025

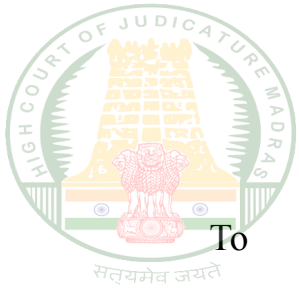
Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

gpa

P.S: Though captioned writ petition is disposed of, list under the cause list caption 'FOR ACTION TAKEN REPORT' by GCC & TN HR & CE on 22.08.2025.



W.P.No.26945 of 2022

To

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W.P.No.26945 of 2022

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

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W.P.No.26945 of 2022

07.07.2025

Page Nos.10/10