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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2025

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 28818 of 2024

And

W.M.P.Nos. 31419 & 31422 of 2024

P.Devaraj

... Petitioner

..Vs..

1. The District Collector
New Collectorate Building
Collectorate, Manjakuppam
Cuddalore – 607 001.

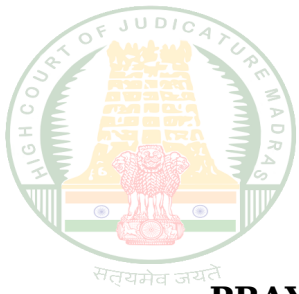
2. The Tahsildar
Cuddalore Taluk
Silver Beach Road,
Anna Nagar,
Cuddalore – 607 001.

3. The Block Development Officer
Panchayat Union Office
Nellikuppam Main Road,
Cuddalore – 607 001.

4. Sukumaran
President,
Madalapattu Panchayat
Cuddalore – 605 007.

5. Usha Manirathinam

... Respondents



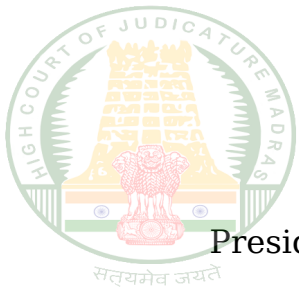
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PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the impugned letter issued by the third respondent in Na.Ka.No.B4/3052/2023 dated 29.07.2024 and quash the same and consequently direct the respondents No. 1 to 4 to restore the compound wall to its original state as before the demolition situated in the 11th cross street North Side in the Anugraha Satellite Township at Madalapattu Village Panchayat, Cuddalore.

For Petitioner	:: Mr.S.Rajendra Kumar for Mr.Sharath Chandran
For RR 1 & 2	:: Mr. N.Naveen Kumar Government Advocate
For RR 3 & 4	:: Mr. Vadivelu, Deenadayalan Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to a letter issued by the third respondent/Block Development Officer, Panchayat Union Office, Nellikuppam Main Road, Cuddalore, dated 29.07.2024 in Na.Ka.No.B4/3052/2023 and quash the same and direct the first to fourth respondents, the District Collector, Cuddalore, the Tahsildar, Cuddalore, Block Development Officer, Cuddalore and Sukumaran,



President of Madalapattu Panchayat, Cuddalore to restore the demolished compound wall to its original state at 11th Cross Street North side in the Anugraha Satellite Township at Madalapattu Village Panchayat, Cuddalore.

2. The petitioner claims that he had served in the Indian Forest Service Officer as Additional Principal Chief Conservator of Forests UT-Cadre and had retired from that post.

3. The Court is not interested as to what was the avocation of the petitioner during his lifetime. He need not put that as a ground to grant his claim.

4. It is stated in the affidavit that the fifth respondent was the original owner of about 43 acres of land in Madalpattu Revenue Village at Cuddalore. She had decided to form a residential layout called Anugraha Satellite Township. The proposal was approved by the Madalapattu Village Panchayat on 10.12.2008. Sale deeds had been executed with respect to individual plots situated within the Township. The petitioner had purchased plot No.96, 11th Cross North measuring about 3000 sq., ft., by way of a registered sale deed dated 17.05.2011 and registered as Document No. 1723 of 2011 on the file of the Sub Registrar Joint-I, Cuddalore.



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5. It is further contended by the petitioner that the said Township Anugraha Satellite Township is a gated Community Township with more than 500 individual houses. It is bounded by 7 feet high compound wall on all four sides. It is manned by security staff round the clock near the gates to ensure the safety of the residents. It is further claimed that many of the serving and retired IAS, IPS, IFS Officials, Judges and Doctors had purchased plots in the Township.

6. These facts mentioned by the petitioner are not relevant to adjudicate the issue in the case and are not required to be considered by this Court. Those who reside in the said Township are only citizens of this country having the same rights as other citizens. No further rights can be bestowed to them.

7. It had been further stated that inside this approved township, a temple is situated, namely, Pazhanchottruaiyyanar Temple, worshipped by the residents of RangaReddypalayam village, which village is a few kilometers away from the township. Very surprisingly, the petitioner, who claims that high placed officials are residing in the



township has not stated that those residents are also worshipers of the temple. For them, the temple is not required and the deity in the temple is also not probably required.

8. Be that as it may, it had been further stated that the temple was situated even at the time of formation of the layout. This would only indicate that even prior to the formation of the layout, the villagers had been worshiping in the temple and after the formation of the layout. It is also stated that there was ingress and egress to the temple by creating a passage through the township through the main gate of the township which is from the Cuddalore-Puducherry High Road and another on the rear side gate through the 14th Cross Street which according to the petitioner is more convenient and a shorter route for the Ranga Reddypalayam villagers. It had also been stated that the devotees from the village are using the latter route, namely, 14th cross street for more than 15 years and have never been denied entry either by the security staff or by the residents.

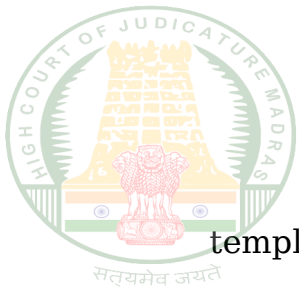
9. It had been further stated that on 26.08.2024, the fourth respondent, the Panchayat President along with others had trespassed in to the township and demolished the compound wall situated on the 11th Cross Street northern side. It is stated that the jurisdictional



police prevented further demolition of the wall. It had been further stated that about 20 members, both men and women tried to enter into the house of the petitioner and threatened him.

10. It had been stated that the said demolition had taken place consequent to the impugned letter dated 29.07.2024 addressed by the third respondent, the Block Development Officer, Panchayat Union Office, Nellikuppam Main Road, Cuddalore to the fifth respondent, who was the erstwhile owner of the lands on the representation given by the villagers of Ranga Reddypalayam village, who requested the fifth respondent to permit the devotees of PazhanchottruAiyyanar temple from Ranga Reddypalayam Village to use the common pathway to reach the temple during festival times since they have to travel about 2 kms around the township to reach the temple. It is under those circumstances that this Writ Petition has been filed questioning the demolition of the wall.

11. The matter had come up earlier and this Court had engaged the counsels in a discussion as to provide a gate instead of the wall across 11th cross street and that necessary protection to be in place by giving a key each to the petitioner association and also to the panchayat office and at the time when the villagers need access to the

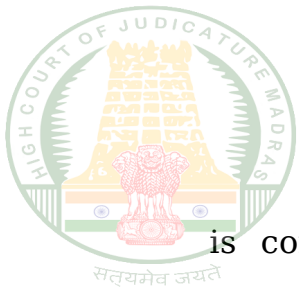


temple which is stated was only about twice a year during the temple festivals, permission could be granted to reach the temple through the 11th cross north street.

12. It is not the case of the petitioner that 11th cross north street is the private property of the petitioner and that he has a right to prevent access through that particular 11th cross north street by anybody and by the villagers more specifically.

13. The learned counsel for the petitioner in his arguments stated that there are alternate ways to reach the temple and also pointed out that one of the alternate way is a Thar Road which would be more convenient for the villagers to go over to the temple. It is further pointed out that there is no pathway as such in 11th cross north street and that it is only agricultural fields and that therefore, access cannot be granted through 11th cross north street to the temple. It had been further pointed out that security issues would arise if villagers are permitted to go through the 11th cross north street.

14. It has been further contended that the President of the village Panchayat was in the forefront of the demolition of the wall. It



is contended that security issues would arise if the people are permitted to walk across the said street to the temple. It was repeatedly pointed out that there are alternate ways for the villagers to reach the temple and that they must be directed to use such alternate way.

15. A counter affidavit has been filed by the Block Development Officer. He had provided a proposal. He had stated that a gate could be erected at the intersection of the original path that leads to the Temple and that keys shall be maintained by both the Panchayat Office as well as by the residential association to ensure that the devotees use the original path to go to the temple and also to ensure that there are no security issues. It was also stated that the temple is quite an old temple and that the path had been used by the devotees of the Rangareddipalayam Village and also by the devotees from elsewhere since the last 150 years since the time the temple was consecrated. This is a statement of fact which is asserted by the Block Development Officer. The petitioner herein having purchased the plots much later would not be aware of such fact and even if he knew it had not stated such fact.



16. It is also stated by the Block Development Officer that this path runs through the cultivating fields of the villagers, which fields were in existence even before the formation of the subject township. The Block Development Officer had very fairly stated this fact since the learned counsel for the petitioner had pointed out photographs to show that there is no extension of the path beyond the wall or the gate which is proposed. The Block Development Officer then had stated that when the fifth respondent sought formation of the township, wanted to buy the fields of the villagers and an oral understanding was arrived that the villagers / devotees would be allowed to use the original pathway to access the temple. This statement by the Block Development Officer is further confirmed by a letter given by the fifth respondent, who was the original owner and who had very specifically stated that the general public belonging to Rengareddipalalyam which she claimed was a very small hamlet can have access to the temple through the 11th cross street. It has been further stated by the Block Development Officer that only after that understanding had been arrived at between the villagers and the developer, did the sale of the fields happened and the township was developed. Thereafter, the wall was constructed by those who purchased the plots and they blocked the pathway and the villagers were not allowed to access the original pathway. It was further stated



that quite recently, a complaint had been lodged and thereafter, the respondents had tried to take action following due process to enable the villagers to have access.

17. The facts stated till now would show that the balance is in favour of the villagers, who had continuous access to the temple through this particular pathway. The parthway had been blocked when the township had been built though an assurance had been held out that they would be provided with access through the said pathway. This assurance was given by the owner of the lands, who formed the layout.

18. Subsequently, those were purchased had also put a gate, not at this 11th cross street but 14th cross street and now they expect the villagers to access the temple though that gate.

19. It is not for the respondents to direct as to how a person should walk across to the temple. If there is a pathway or if there was a pathway every person has right to access that particular pathway to go to the temple. If that pathway is blocked then every person would have a right to seek removal of such obstruction. It had been further stated by the Block Development Officer that unlike the poor villagers, the persons, who had purchased the residential properties are those



hailing from other parts of the State or Country and that they are not aware about the existing customs, practices and the importance of such practices.

20. It was also pointed out by the Block Development Officer that the alternate route suggested by the petitioner is a roundabout route. It is further stated that the temple festival is to be scheduled to be held in the second week of January 2025 and it was for that purpose, the wall was partially demolished and a proposal was given up to put a gate and hand over the keys to the Panchayat Office and also to the Association of the residents.

21. On the side of the petitioner, photographs have been produced and the learned counsel insisted that the compound wall had been demolished and stated that it had been put up in the year 2008 and demolished without authority of law and that there was no pathway which extend towards the temple. These are facts which cannot be either denied or disputed. The wall had been put in the year 2008 and demolished in the year 2024 and further across the wall, the pathway does not extend, but agricultural fields are there. However, the letter of the fifth respondent very clearly states that access through that particular way to the temple would not be denied



and was never proposed to be denied at the time when the township was formed.

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22. It is also to be noted that the petitioner had given a representation to the first respondent. A copy had been enclosed by the respondents herein. It had been pointed out that except for four of the signatories, the other signatories are neither interested or not connected with the issue on hand. It is thus seen that the petitioner represented a miniscule group of people, who seek to prevent the common villagers having access to the temple. It would have been far far more better had the petitioner and his ilk opened the compound wall by themselves and permitted the respondents to go over to the temple and while going over, encourage them to visit the temple and provide access voluntarily. The high handed action of the petitioner show that he is neither interested in following any custom nor in upholding the rights of the common man.

23. A copy of the gift deed had already been enclosed wherein cross road No.11 had been formed at the time when the lay out was proposed. That particular route had been gifted by the promoters. Once it has been gifted for the purpose of formation of a pathway; Section 54 of the Town and Country Planning Act 1971, comes in to



play. The provision very clearly states that there cannot be any alternate method in which such land can be put to use once it had been earmarked for a particular purpose.

24. Section 54 of the said Act relates power of revocation and modification of the permission granted for development of a layout. Section 54(b) of the Act provides that where the permission relates to a change of use of land or building, no such change shall be made at any time after the change has taken place.

25. Once the land had been gifted for the purpose of formation of a No.11 cross street, the said pathway has to be retained as a pathway and there cannot be any change or modification by putting up a wall across the street. This is an act which cannot be appreciated or condoned by this Court. It could be a fact that there is no road on the other side of the compound wall but if that pathway which was used, the poor villagers and devotees have to be permitted to walk across that route to reach the temple. It is not for the petitioner to point out that the villagers have access through a Thar road and that therefore, they would be at more comfortable to walk across the 14th cross street to access the temple.



26. A copy of the patta had also been enclosed by the respondents wherein the survey number where the road had been laid had been given and it is seen that the name of the person, who has right in Patta No. 1354 is the Panchayat President of Madalapatti. This land had been gifted for the formation of the road to the Panchayat. The field map had also been enclosed by both sides and it is clear that the cross street No.11 is a direct access to the temple and the other surrounding roads do not provide direct access.

27. The learned counsel for the petitioner had turned down the proposal for putting up a gate and providing the keys to both the Association of the petitioner and also to the village Panchayat Office. The gate can be closed at the time of festival and the gate can be opened to enable, the villagers to have access to the temple.

28. In view of the fact that the proposal put up during the discussion of the Court and by the Block Development Officer, had been rejected. I am not prepared to accept the argument that there is an other alternate way to access the temple and that the villagers must use such alternate way alone. The petitioner, who claims to have been a high placed officer and who also claims that the Judges and others are residing in the community place may employ necessary security persons to look after themselves and their belongings.



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29. The Writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions stand closed. No order as to costs.

10.01.2025

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

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C.V.KARTHIKEYAN, J.,

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