



W.P.(MD).No.6125 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2025

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.6125 of 2022

and

W.M.P.(MD).No.4757 of 2022

Selvam

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Kadaladi Taluk Office,
Ramanathapuram District.

3.The President,
Periyakulam Panchayat,
Kadaladi Taluk,
Ramanathapuram District.

4.Muthusamy

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 3 to take appropriate action as against the fourth respondent for constructing the temple without permission and plan approval and consequently to remove the construction of the fourth respondent made in the pathway, situating in the land in survey no.186/4A in Periyakulam Village, Kadaladi Taluk, Ramanathapuram



W.P.(MD).No.6125 of 2022

District, by considering the petitioner's representation dated 09.03.2022 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthick
For R1 to R3 : Mr.S.Shaji Bino,
Special Government Pleader

ORDER

The petitioner seeks a writ of mandamus to direct the respondents 1 to 3 to take action against the fourth respondent for constructing a temple without permission or plan approval and also to remove the construction made in the pathway in S.No.186/4A, Periyakulam Village Kadaladi Taluk, Ramanathapuram District, by considering the petitioner's representation dated 09.03.2022.

2.The case of the petitioner is that he had purchased the property situate in S.No.186/1A1A, by way of a registered sale deed, dated 10.03.2016 abutting his property is the land bearing S.No.186/4A.

3.According to the petitioner, he and the other villagers were using the property at S.No.186/4A to access their properties for a long period of time. The fourth respondent, who is the owner of the property in S.No. 186/4A had commenced a construction and had put up a foundation. Pleading that this is a temple, the petitioner has come forward with the present writ petition.



W.P.(MD).No.6125 of 2022

4. Notice was ordered in the writ petition and the respondents have been served.

5. I heard Mr. M. S. Jeyakarthick, learned counsel appearing for the writ petitioner and Mr. S. Shaji Bino, learned Special Government Pleader appearing for the respondents. The fourth respondent though served, has not entered appearance.

6. It is not in dispute the property in S.No.189/4A belongs to the fourth respondent. As to how and in which manner, he wants to put use of his property cannot be objected to by a neighbour unless it infringes some statute. If the petitioner claims right of access to his property through the fourth respondent's property, his remedy is before the Civil Court. The Civil Courts in Kadaladi are open and the petitioner can always knock on the doors of that Court seeking for the relief of access to his property, if he is so entitled to it.

7. The fourth respondent, being the owner, unless and until he has infringed some law, a mandamus cannot follow. By giving a direction to consider the representation of the petitioner, this Court indirectly will be goading the said authority to interfere with the right to the property of the fourth respondent. Such is not the purpose for inserting article 226 in the Constitution of India. Leaving it open to the petitioner to approach



W.P.(MD).No.6125 of 2022

the jurisdictional civil Courts, for whatever the remedy he feels is available to him. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2025

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Tahsildar,
Kadaladi Taluk Office,
Ramanathapuram District.
- 3.The President,
Periyakulam Panchayat,
Kadaladi Taluk,
Ramanathapuram District.



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W.P.(MD).No.6125 of 2022

V.LAKSHMINARAYANAN, J.

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