



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1849 of 2025

and

C.M.P.(MD).No.10235 of 2025

1.Pethi @ Thirumalairaj

2.P.Periyakaruppan @ Deepan Raja

3.Thirumalairaj

4.Mayakrishnan @ Krishnamoorthi
Vs.

...Petitioners

1.Ganesan

2.Ravichandran

3.Sivakumar

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the entire records connected with the plaint in O.S.No.131 of 2025 pending on the file of the District Munsif Court, Melur and strike off the plaint and its proceedings.

For Petitioners : Mr.S.Malaikani

For Respondents : Mr.S.Alagarsamy

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ORDER

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This Civil Revision Petition has been filed to strike off the plaint in O.S.No.131 of 2025 pending on the file of the District Munsif Court, Melur.

2. The respondents herein filed the suit in O.S.No.131 of 2025 before the District Munsif Court, Melur, seeking declaration declaring that the suit temple is a public temple, along with a consequential relief restraining the petitioners / defendants from interfering with the rights of the public in worshipping the deities of the said temple, namely Muniyandi Swami and Nondi Swami.

3. The learned counsel appearing for the petitioners would submit that, in respect of the same suit temple, the President of the Alathur Panchayat had earlier instigated the Tahsildar, Madurai North Taluk to issue a notice to one Pethimaharajan, directing him to reinstall the deities, namely Muniyandi Swami and Nondi Swami, to their original position. The said notice was challenged by the above said Pethimaharajan before this Court in W.P.(MD).No.10378 of 2005. In the said writ petition, this Court held that the property in Survey No. 43/B belonged to the petitioners' great-grandfather, who had originally installed the deities. Subsequently, the said survey number was subdivided as Survey No. 43/6C in the year 1987, measuring 0.09.5 hectares, and Patta No.228 was issued in favour of the above said Pethimaharajan's mother and another person, Pandiammal, by the Special Tahsildar (U.D.R.). The Writ Petition was allowed



on 15.07.2010, and this Court observed that any person claiming any right in the said property cannot interfere with the possession of the petitioners' family.

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4. The learned counsel for the petitioners therefore contends that in view of the finality of the order passed in W.P.(MD).No.10378 of 2005, the present suit filed by the respondents is not maintainable and is without jurisdiction.

5. Per contra, the learned counsel for the respondents submits that liberty may be granted to the respondents to prefer an appeal before the Division Bench of this Court as against the order passed in W.P.(MD).No.10378 of 2005, dated 15.07.2010.

6. Heard the learned counsel on either side and perused the records.

7. The facts in the present case are not in dispute. The very same issue regarding the nature of the temple and the title to the property was adjudicated by this Court in W.P.(MD).No.10378 of 2005, and a categorical finding has been rendered that the property and temple belonged to the petitioners' family, and no declaration from the authorities is necessary. This Court also held that any contrary claim cannot be entertained by the authorities or by way of fresh proceedings. The relevant portion of the order dated 15.07.2010 reads as follows:



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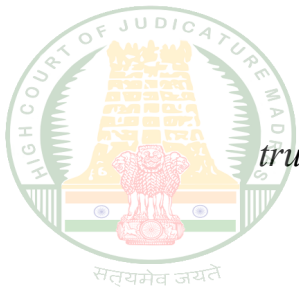
“9. The contention of the 4 respondent that members of various communities are given the “Nattamay Mariyathai” for over a considerable period and that the customs and practice prevailing in the temple should be allowed to continue, cannot be accepted in view of the categorical statement of the second respondent that the Deities have been installed by the ancestors of the writ petitioner When the Revenue Authority and that they are very much in the patta land belonging to the writ petitioner and his family members. When the Revenue Authority himself has admitted that the temple is situated in a private land and that Deities were installed by the petitioner's ancestors, merely because a custom was practiced in the village, neither the president nor the members of the village can make a claim that the Deities should face eastern direction and that the landowner has no right to change the direction.

10. Section 63 of the Hindu Religious and Charitable Endowments Act, deals with the powers of the Joint Commissioner or Deputy Commissioner to decide certain dispute and matters and it reads as follows:-1

"Subject to the rights of suit or appeal hereinafter provided (the joint Commissioner or the Deputy Commissioner, as the case may be), shall have power to inquire into and decide the following disputes and matters:-

(a) Whether an institution is a religious institution;

(b) Whether a trustee holds or held office as a hereditary



trustee:

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(c) *Whether any property or money is a religious endowment;*

(d) *Whether any property or money is a specific endowment;*

or (e) *Whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution, and what the established usage of a religious institution is in regard to any other matter;*

(f) *whether any institution or endowment in wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses, and*

(g) *where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses."*



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11. Admittedly, in the case on hand, no suit or appeal is pending before any civil Court. The Tahsildar, Madurai North Taluk has admitted that the land belongs to the petitioner and that the deities have been installed by the ancestors of the petitioner. In these circumstances, the contention of the Panchayat President that the petitioner has to approach the authorities to get a declaration that it is private temple under Section 63 (a) of the HR & CE Act, cannot be countenanced and therefore, this Court is of the considered view that it is not necessary for the petitioner to approach the authorities concerned, for getting a declaration.

12. The contention of the 4 respondent that the temple is situated near a road margin of Highways road to Marranivariandal Village, is also liable to be rejected in view of the specific Statement of the Tahsildar, Madurai North Taluk. Though at paragraph No.11 of the counter affidavit, the 4 respondent, has stated she has nothing to do with the change of direction of the Deities or complaint alleged to have been made and the consequential impugned notice and that she had been unnecessarily dragged on this present writ proceedings and that she is not a necessary or appropriate party and no relief has been claimed against her. The 4 respondent has chosen to file a detailed counter affidavit traversing the averments, as to how the petitioner and his family members, came into possession of the property. Stepping into the shoes, she has claimed that her husband has got right over the property. Inasmuch as the 4 respondent herself has come forward to say that she is in no way connected with the dispute, all her contentions on merits have be

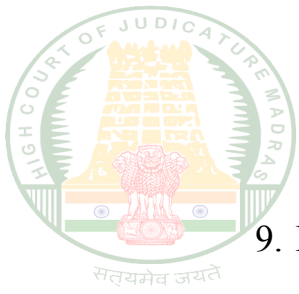


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eschewed. All that is objected in the impugned notice is with regard to the change in the direction of the said two Deities viz., "Sri Muniyandi Swami" and "Nondi Swami" which is situated in the patta land owned by the writ petitioner is solely based on mere apprehension that there would be law and order problem in the Village and unless the Deities are restored to its original direction, something adverse to the village would happen. Deities in a patta land in any direction is the exclusive right of the owner of such land and neither the revenue authorities nor the public can claim a right over the same and interfere with his exclusive possession and enjoyment. The action of the Tahsildar, Madurai North Taluk, in directing the petitioner to restore the Deities to its original position amounts to interference of the personal rights of the writ petitioner and it is without any legal or statutory backing. In view of the above, the impugned notice is without any jurisdiction and it is liable to be set aside.

13. In the result, the writ petition is allowed and the impugned Notice, dated 09.08.2005, issued by the 2 respondent, is set aside. The 4 respondent or any other member claiming any right is hereby restrained from interfering with the petitioner's possession of the property. The official respondents are directed to maintain law and order in the Village. No costs. Consequently, connected petitions are closed. “

8. The petitioners need not approach the authorities seeking any declaration regarding the private nature of the temple and the property, as it already stands established that the same belongs to the petitioners' family and a contrary proceedings are without jurisdiction.



9. In light of the above finding, the institution of the suit in O.S.No.131 of 2025 is clearly unsustainable and amounts to abuse of process of law. The trial Court has no jurisdiction to re-adjudicate a matter already settled by this Court in writ proceedings.

10. Accordingly, this Civil Revision Petition is allowed, and the plaint in O.S.No.131 of 2025 pending on the file of the District Munsif Court, Melur, is struck off. However, liberty is granted to the respondents to work out their remedy in the manner known to law, if so advised. No costs. Consequently, the connected miscellaneous petition is closed.

23.07.2025

Internet: Yes/No

Index: Yes/No

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To

1. The District Munsif Court, Melur.

2. The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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