



W.P.(MD) No.17988 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

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THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.17988 of 2025

and

W.M.P.(MD) No.13762 of 2025

1.N.Jeya

2.D.Murugeswari

3.A.Janaki

4.Arumugam

5.Selvaraj

6.Muppidathi

... Petitioners

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Sankarankoil Taluk,
Tenkasi District.

3.The Assistant Commissioner/
Executive Officer,
Hindu Religious & Charitable
Endowment Department,



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Sankaranarayanaswamy Thirukoil,
Sankarankoil,
Tenkasi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the third respondent from demolishing the dwelling houses of the petitioners in land bearing S.No.588 situated in Kalappakulam Village, Sankarankoil Taluk, Tenkasi District in the guise of execution of the order dated 13.09.2022 in E.A.No.230 of 2013 in E.P.No.10 of 2010 in O.S.No.18 of 2000 on the file of the Sub Court, Sankarankoil by considering the representation of the petitioners dated 17.06.2025 and 21.06.2025.

For Petitioners : Mr.K.Jeyamohan

For R1 & R2 : Mr.S.S.Madhavan
Additional Government Pleader

For R3 : Mr.S.Manohar
Standing Counsel

ORDER

The petitioners are before this Court on the assumption that the third respondent is proceeding with the eviction proceedings in light of the Judgment and Decree passed in O.S.No.18 of 2000 by the Sub Court,



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Sankarankoil, on 29.10.2001, pursuant to which the third respondent initiated proceedings in E.P.No.10 of 2010.

2. It is submitted that the suit was filed by one Thangasamy Thalaivar against one Sivanu Mudaliar for recovery of money, which was decreed in favour of the said Thangasamy Thalaivar on 29.10.2001. It is further submitted that the said decree was confined only to 31 cents of land out of 98 cents in Survey No. 588, situated in Kalappakula Village, Sankarankoil Taluk, Tenkasi District.

3. It appears that the property in the suit was brought to sale on 15.11.2010 pursuant to the order passed in E.P.No.10 of 2010. A sale certificate was issued in favour of one K.Ramachandran on 18.01.2011, and the land was handed over to him on 27.06.2012, which was recorded by the Court on 13.07.2012.

4. It is submitted that, since the property belongs to the third respondent temple, the third respondent filed E.A.No.230 of 2013 under Order XXI Rule 99 of the Code of Civil Procedure, 1908, read with Section 151 of the CPC, seeking a declaration that the suit property



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belongs to the third respondent temple and that the sale of the property is

null and void. The said E.A. was allowed by the Sub Court, Sankarankoil, on 13.09.2022.

5. It is submitted that the lands belonging to the temple were purchased, and several sale deeds have been executed and transfers have taken place since then. However, the Judgment and Decree dated 29.10.2001 passed in O.S., the order passed in the E.P., and the order dated 13.09.2022 in the E.A. filed by the third respondent temple under Order XXI Rule 99 read with Section 151 of the Code of Civil Procedure, 1908, were confined only to 31 cents of land out of 98 cents in Survey No. 588, situated in Kalappakula Village, Sankarankoil Taluk, Tenkasi District.

6. It is further submitted that the petitioners are in possession of a small portion of land forming part of the remaining 67 cents, which falls outside the scope of the Judgment and Decree dated 29.10.2001 passed in the O.S., the order passed in the E.P., and the order dated 13.09.2022 in the E.A. filed by the third respondent temple under Order XXI Rule 99 read with Section 151 of the CPC. It is further submitted that, at best, the



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third respondent can initiate proceedings under Section 78 of the Act and not otherwise. It is submitted that the order secured in E.A.No.230 of 2013, filed by the third respondent temple under Order XXI Rule 99 read with Section 151 of the Code of Civil Procedure, 1908, does not confer any authority to remove alleged encroachments by any of the petitioners.

7. On the other hand, it is the contention of the third respondent that the petitioners ought to invoke Section 47 read with Order XXI Rule 101 of the Code of Civil Procedure, 1908, by filing an appropriate application raising obstruction to their removal from the property.

8. It is submitted that there is no merit in this Writ Petition. It is further submitted that the option is available to initiate proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 pursuant to the order dated 13.09.2022 passed under Order XXI Rule 99 read with Section 151 of the Code of Civil Procedure, 1908. Therefore, this Writ Petition is liable to be dismissed.

9. The learned counsel for the petitioners, at this juncture, submits that the petitioners' request for execution of a lease deed may be



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considered, as has been done in the case of others who have encroached upon more than 3,000 acres of land.

10. The learned counsel further submits that the families of the petitioners have been in possession of the property for more than 30 years, having put up a construction in which they have been residing, and that it would be unfair to remove the petitioners from the land.

11. Having considered the submissions made by the learned counsel for the petitioners, the learned Additional Government Pleader for the first and second respondents, and the learned Standing Counsel for the third respondent temple, this Court is of the view that the request of the petitioners for grant of lease of the property, in terms of Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, read with the Religious Institutions (Lease of Immovable Property) Rules, 1963, can be considered, taking into account the fact that the petitioners have been in possession of the property for a considerable period of time and have put up construction thereon.



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WEB COPY 12. The third respondent may consider the petitioners' request by fixing the ground rent and determining the payment for use and occupation of the property for a period of 30 years from the date of possession by the respective petitioners. In the above circumstances, the third respondent may consider the request and pass appropriate orders, after fixing the fair rent for each of the past years as well as for the future period.

13. The petitioners shall pay the rent without any default within the time stipulated by the third respondent, without prejudice to the rights of the third respondent to initiate proceedings under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, as and when the land is required for the use of the third respondent temple.

14. It is made clear that the directions contained in this order are without prejudice to the rights of the third respondent in the order secured in E.A. filed by it under Order XXI Rule 99 read with Section 151 of the Code of Civil Procedure, 1908, on 13.09.2022.



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15. With the above observations, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/No

To

1.The District Collector,
Tenkasi District, Tenkasi.

2.The Tahsildar,
Sankarankoil Taluk,
Tenkasi District.



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C.SARAVANAN, J.

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