



W.P(md)No.17141 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 11.12.2025

Pronounced On: 17.12.2025

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

WP(MD)No.17141 of 2017

and

W.M.P(MD)Nos.13715 of 2017, 15914 and 15915 of 2020

D.Ilanchelian

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by
The District Collector,
Tiruchirapalli.
- 2.The Commissioner
Tiruchirapalli City Municipal Corporation,
Corporation Office,
Bharathidasan Salai,
Tiruchirapalli.
- 3.The Local Town Planning Authority,
Tiruchirapalli City Municipal Corporation
Kajamalai, Tiruchirapalli.
- 4.The Superintending Engineer,
National Highways,
Having Office at Mannarpuram,
Tiruchirapalli.



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5.The Tahsildar,
Srirangam Taluk,
Taluk Office, Srirangam,
Tiruchirapalli.

6.Srirangam Co-operative House Building Society,
Srirangam,
Tiruchirapalli.

7.K.S.Ganapathy Iyer,
86, Ganapathi Nagar,
Thiruvanaikovil,
Tiruchirapalli-5.

8.Mel Maruvathur Adhi Parasakthi Sidhar Peedam,
represented by its Executive Officer,
8.8.36, Ganapathi Nagar,
Thiruvanaikovil,
Tiruchirapalli.

9.Bangaru Adigalar(Died)
Mel Maruvathur Adhi Parasakthi Sidhar Peedam,
Mel Maruvathur,
Kanchipuram District.

10.Anbalagan Adiyar
(R10 is impleaded vide Court order
dated 10.09.2025 in W.M.P(MD)No.
13227/2025)

...Respondents/Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2and 3 to remove the illegal construction in the road space and also the 40 feet wide road as found in the plan, directing the temple to be relocated in some other place unconnected with the road space, enabling the outlet road from the to be straight in the proposed road space for the convenience of the public and road users.



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For Petitioner : Mr.S.K.Mani
For R1,R3,R4&R5: Mr.S.R.A.Ramachandran,
Additional Government Pleader
For R2 :Mr.R.Baskaran, Senior Counsel,
for M/s.R.B.Law Associates
For R7 :Mr.Raguvaran Gopalan
For R8 :Mr.D.Selvam,
for Mr.S.Praveennath
For R6&R9 :No appearance

JUDGMENT

(Judgment of the Court was delivered by DR.G.JAYACHANDRAN,J.)

This Public Interest Litigation is by a resident of Thanthai Periyar EVR Nagar, Tiruchy. As per his affidavit, Thanthai Periyar EVR Nagar was promoted by the Srirangam Co-operative Housing Building Society (the 6th respondent) in the year 1974. His father purchased a plot from the said Society and had constructed a house. On the west of this layout, the Madras Trunk Road and to the south, Thiruchi – Villupuram Railway line, runs. During the same period, the 7th respondent viz., K.S.Ganapathy Iyer, promoted his land situated nearby EVR Nagar and named it as 'Ganapathy Nagar'.

2.The grievance of the writ petitioner is that, in the year 2006, 20 feet width Madras Trunk Road running along these two layouts, was encroached and a temple by name, Adhi Parasakthi Kovil was constructed. In the year 2009, the seventh respondent applied to the surveyor for sub-division of the



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land in its occupation. On sub-division, proceedings were issued holding: a) T.S.No:2019/91-1 – Punja Measuring 111 sq mts with Adhi Parasakthi Kovil and b) S.No.2019/91-2 - Punja Measuring 411 sq mts with K.S.Ganapathy Iyer. When in the year 2015, the Railway Over bridge work was started on the Madras Trunk Road near EVR Nagar and Ganapathy Nagar, the underground tunnel was constructed beneath the Southern Railway Line in the 20 feet wide road space, so that, to and fro vehicular traffic could pass through. But then, the tunnel at the exit point is obstructed by the temple and a temporary construction was put up by the National Highways Authority of India (NHAI). Due to this obstruction, vehicles passing through the tunnels had to take a deviation to reach the trunk road. The information received through the Right To Information Act reveals that the Construction of the Adhi Parasakthi temple is without permission and on the land encroached.

3.The 8th respondent in its counter affidavit, questions the bonafideness of the writ petitioner. According to this respondent, the writ petition is not a Public Interest Litigation. The writ petitioner, who is running a garage used to occupy 40 feet road by parking all sort of vehicles coming to his garage. When that was questioned, there was a quarrel and out of animosity, the present petition is filed under the guise of public interest. Earlier a Writ Petition as PIL was filed by one Mohan Ram with similar



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allegation. The said W.P(MD)No.5546 of 2017 was dismissed holding that the land, upon which the temple stands, is a patta land.

4. According to the 8th respondent, in the year 1974 Ganapathy Iyer got approval from the Local Town Planning Authority for Ganapathy Nagar. Some of the purchasers of the flat from Ganapathy Iyer approached him for allocation of land for conducting weekly prayer meeting (Adhi Parasakthi Vara Vhazipadu). Ganapathy Iyer, the promoter of the layout granted permission to conduct the weekly prayer in about 1300 sq.ft. of land, on the North Eastern corner of the layout. In that place, a shed was erected without any hindrance to the public. In the year 2004, the President of the weekly prayer group approached the Thasildar for grant of patta. After inspection, the Thasildar issued a joint patta in favour of the Adhi Parasakthi Charitable, Medical, Education and Cultural Trust, in respect of 4020 sq.ft. of land comprised in S.No: 2019-1 and 2056 –B 2 in Thimmarayasamudram Village, Periyar Nagar – Ganapathy Nagar, Thiruvanaikovil, Srirangam Taluk, Tiruchirapalli District. Based on the joint patta, the Trust is in possession and enjoyment of the land. The Prayer Hall is built in 4020 sq.ft. of land and in use from the year 1985 continuously, without interruption for more than 39 years. The Prayer Hall is constructed in the patta land and there is no encroachment.



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5. Upon considering the rival submission, this Court vide its order dated 13.09.2022, appointed an Advocate Commissioner to inspect the subject property with the assistance of the Local Surveyor and the Village Administrative Officer along with revenue records, after issuance of due notice to all the parties and find out whether there is any encroachment in the subject property, whether the construction of the temple is made without permission and whether the same causes any disturbance/ hindrance to the general public.

6. The Learned Advocate Commissioner, after inspection of the subject property, had filed his report along with the sketch. His findings and suggestions are as below:-

“The Temple was initially in Ward block B42, Town Survey No. 2019/93 within the land of one Shri. Ganapathy Iyer (Respondent No. 7) measuring total extent of 5,624 Sq.ft (522.5 Sq. Meters) and later in the year 2009, the sub division of the patta was done and was sub divided as follows:

Town Survey No:2019/93-1 Punja measuring 1200 Sq. ft (111.5 Sq. Meters) was found to be in favour of Adhi Parasakthi Kovil.

Town Survey No:2019/93-2 Punja measuring 4430 Sq. ft (411.5 Sq.Meters) was found to be in favor of the 7th respondent.

Thus, the Aadhi Parasakthi temple is now situated in Ward Block B/42, Town Survey No. 2019/93-1, Ganapathy Nagar,



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Srirangam Taluk, Thiruchirapalli. And is surrounded by

North - 30ft Railway Subway Road connecting to Chennai Highway South - Plot in Town Survey No. 2019/93-2 in the name of one Ganapathy lyer (Respondent No.7)

East-Madras Trunk Road Over Bridge connecting Thiruchirapalli to Chennai Highway

West- Ganapathy Nagar 40ft wide road

The temple consists of

First Floor - Karuvarai surrounded by a larger prayer Hall in front of the karuvarai. And a Front Office room.

Ground Floor A Sacred Snake Pit, a Store Room and Two Toilets.

SURVEY OF THE TEMPLE:

That as per the measurement of the surveyor and the Sub division of patta proceedings of Thasildar of the land of the Temple in Town Survey No. 2019/93-1 is to be Situated at an area of measuring 1200 Sq.ft (111.5 Sq.Meter) i.e. 20 ft (East-West) X 60 ft (North-South).

Upon the Surveying the temple land, it is found that total measuring of the temple is around 3720 Sq.ft (345.5 Sq.Meter) i.e. 30 ft (East-West) X 124 ft (North-South).

And a building belonging to the National Highway Department to the North of the Temple is found to be deserted and not found in any of the Revenue Records. It is found that the total extent of 420 Sq.ft i.e. 30ft (East-West) X 14ft (North-South).

FINDINGS:

1. That as per the records of the surveyor the actual



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length of the temple (North South) is 60ft and 15ft (East-West) at the North and 20ft (East-West) at the South of the temple. Whereas the total area of the temple as per revenue records is 1200 Sq.ft (111.5 Sq.meter). Thus, there is miscalculation of the dimensions and the total area of the temple in the revenue records.

2. The temple has encroached a total of in the East by 750 Sq. ft i.e 15,10 ft (east-west) X 60 ft (North-South) situated at Block 42, Town Survey No. 2018/1B1 North – by 1920 Sq.ft ie., 30 ft (east-west) x 64 ft (North - South) situated at Block No. 44. Town Survey No. 148/P+ West- by 1.5ft encroached into the 40 ft wide Road (Not shown in the surveyor sketch)

3. That while measuring the 40ft wide road to the West of the Temple, it is found that 1.5 ft is encroached by the temple into the 40ft road.

4. That abandoned building to the North of the Temple measuring to is situated at Block No.44. Town Survey no. 148/P +. According to the extent of 420 Sq.ft ie 30 ft (east-west) X 14 ft (north-south) the Junior Engineer R. Balamurugan, it is belonging to the National Highways Department,

5. That apart from the area of temple few outer projections (sunshade, pile cup, Sculpture) are made from the temple to the Eastern and Western Side of the temple to the extent of 2.6 ft. (Approximately)

6. That only the Karuvarai of the temple and part of the prayer hall is within the area of the temple as per the revenue records. And other extensions such as Prayer Hall, Office



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Rooms, Toilets, Store Rooms, Entrance to the temple are situated in the encroached area.

SUGGESTION:

The Aadhi Parasakthi Kovil is situated to a larger extent than the proposed area in the Revenue Records. Thus, the part of the Temple is constructed into the unauthorized area. Mostly the Front office room, Toilets, Store room and part of the Prayer Hall is constructed into the nauthorized area. Whereas the Karuvarai of the Temple is within the authorized area. But the location of the temple is not causing any hindrance to the public.

Considering the development of the area in near future, the unauthorized erections may be cleared for better commuting of vehicles and the 1.5ft encroachment into the 40ft Wide Road to the west of the Temple may be looked into.

The Abandoned Highway building was erected for the purpose of constructing the Madras Trunk Road over Bridge and even after the completion of the construction of the over bridge the building is not yet cleared. The Abandoned National Highway Building to extent of 420 Sq. ft is causing disturbance to the public Roads and traffic and may be cleared from the place.”

7.The Learned Counsel for the petitioner submitted that the land, on which the 8th respondent temple is erected, is the land earmarked for public purpose in the Ganapathy Nagar Layout plan approval. The land earmarked for public purpose cannot be converted to any other purpose. The promoter has no right to permit the third parties to occupy it. Grant of patta of the land



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shown as public purpose property to a third party is illegal. In ***Bangalore Medical Trust –vs- B.S.Mundappa and others***, reported in (1991 (4) SCC 54, the Hon'ble Supreme Court has clearly held that the open space reserved for public park in the development scheme and duly approved, cannot be converted even into a civic amenity site. Such action is invalid and ultra vires being contrary to the purpose of the Town and Country Planning Act.

8.The Learned Counsel for the writ petitioner contended that the temple management had constructed the building encroaching public land even without obtaining any plan permission for its construction. Hence, the illegal construction in violation of the Act has to be demolished.

9.The Learned Counsel appearing for the 8th respondent contended that, it is incorrect to say that the Prayer Hall and the Temple are constructed encroaching public place and the road margin. The Advocate Commissioner appointed by this Court failed to take into consideration the joint patta issued by the Thasildar on 29.06.2004 in respect of 4020 sq.ft. of land and the construction of the building is within that area. The commissioner has failed to mention the correct survey numbers, upon which the temple construction is located and its measurements. The finding of the Advocate Commissioner that 8th respondent has encroached 1920 sq.ft. of the road margin, is not



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correct. The measurement was not made properly. The alleged encroachment of 1.5 sq.ft. upon the 40 feet road, is incorrect. The photographs were produced to impress upon the Court that there is no hindrance to the public due to the temple construction. If at all any inconvenience to the public and hindrance to the free flow of traffic, it is only due to the temporary construction put up by NHAI, while carrying on the Railway over bridge work.

10.He further submitted that, in the layout approval of Ganapathy Nagar, the disputed portion was not earmarked for any particular public purpose. Weekly Prayer Hall and Temple are also for the public and further, the land was not gifted to the Local Body Authority by the land owner. In Contrary, the land is in the name of the promoter all along and he had expressed no objection in allotting the portion of the land to the 8th respondent. Thus, in the year 2004 itself, on sub division, joint patta was issued for the land in occupation of the 8th respondent. Therefore, the dictum laid in *Bangalore Medical Trust case(cited supra)* has no relevancy to the facts of the case.

11.The Learned Additional Advocate General submitted that, upon the land in dispute, two structures are put up. One is the structure put up by the



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8th respondent, which is used as place of worship. Another is the structure put up by NHAI for its use while constructing the Railway Over Bridge. This structure is not in use. Insofar as the temple structure put up by the 8th respondent is concerned, on receipt of objection from the public, the Thasildar inspected the site and found that near the exit of the subway to the trunk road, there is an encroachment by the 8th respondent. A portion of encroachment is on the patta land of one Subramani, s/o Palaniyandi. No objection was received from the pattadar regarding encroachment of his patta land. On the road margin 540 sqft (1.23 cents) is encroached, for which, notice under Section 7 of the Land Encroachment Act 1905, to remove the encroachment was issued to the 8th respondent. The proceedings of the Thasildar dated 24.06.2020 requesting the Assistant Commissioner of Tiruchy Municipal Corporation, to take further action, is under progress and the same will be proceeded as per the directions of the Court.

12.Heard the submissions of the Learned counsels representing the parties on either side. Records examined.

13.The Advocate Commissioner, in his report dated 27.09.2022, has made a specific observation that, part of the temple structure is on the encroached portion. He had also reported that for the present, it is not



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causing any hindrance to the public. In future, for better commuting of vehicles, 1.5 ft encroachment on the 40 feet road needs to be removed. Regarding 420 sq.ft. building put up by NHAI, he has observed that, the said structure has to be cleared, since it causes disturbance to the public.

14.From the patta proceedings dated 29.06.2004 of the Thasildar, Srirangam, we find that it is a sub division proceedings, in which, T.S.No: 2019/93 –Punja land measuring 0.0522.5 earlier stood in the name of the 8th respondent and 7th respondent, was sub divided into 0.0111.5 and 0.411.5 sq mts in favour of 8th respondent and 7th respondent respectively. One Mohan Ram had filed a Public Interest Litigation in W.P(MD)No.5546 of 2017 for mandamus to remove the Melmaruvathur Adhi Parasakhti Sidhar Peeda Mandapam (constructed by the 8th respondent in this writ petition) in T.S No: 2019-93-1 being constructed illegally. This writ petition was dismissed by this court on 13.07.2017 with the following observation:-

“Since the prayer hall is in the patta land, it is not possible to issue a Mandamus directing the respondents 1 to 4, to remove the encroachment. It is always open to the petitioner to challenge the order granting patta to the sixth respondent, in case he is aggrieved. It is also open to the petitioner to approach the appropriate authority to redress his grievances, notwithstanding the disposal of this writ petition.”



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15.From the records, it is obviously clear that, the construction under dispute is on the land which was earlier part of the layout approved in the year 1974. The land is still in the name of the 7th respondent, who is the promoter of the layout and on his consent, the devotees were using a portion of the land for weekly prayer since 1983. Rest of the land in 411.5 sq.ft. is presently used as park. Later, in the year 2004, by consent a joint patta was issued by including the name of the 8th respondent and with sub-division. The railway over bridge and the sub-way to approach the trunk road came after 2017. In the latest report of the Town Surveyor, which is dated 11.09.2025, we find the Adhi Parasakthi temple is in encroachment of :-

a) 67.7 sqmt in T.S.No: 2018/1B1 which is Thirvananikaval temple Road as per revenue records.

b) 72.9 sqmt in T.S.No: 2025 B 2/46 which is a 'poosthi road' as per the revenue records.

c) 14.00 sqmt in T.S.No: 2025 B 2/32 which is a 'poosthi road' as per the revenue records.

d) 103.0 sqmt in T.S.No: 2025 B 2/45 which is a poosthi road as per the revenue records.

16.From the above report of the Town Surveyor, addressed to the Assistant Commissioner, Srirangam, we also find that the erstwhile Block 42



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containing T.S.No:93/1 and 93/2 is divided into Block 42 and 44 with further sub division of the Town Survey numbers. No details are available as to whether these divisions were made after due notice to the occupiers and objectors.

17.In any case, the alleged obstruction to the traffic in view of the newly constructed under pass-way referred as tunnel in the writ petition, is a matter for consideration by the Corporation of Tiruchy. As reported and suggested by the Advocate Commissioner, presently the structure, which is a place of worship and in existence prior to the construction of railway over bridge and the sub way or tunnel as mentioned in the writ petition, is not causing any hindrance to the public, the temporary structure put up by NHAI measuring about 420 sq.ft. alone needs to be removed, since it has served its purpose.

18.Therefore, any action for removal of the existing temple structure on the ground of obstruction, whether in the encroached land or in the patta land, shall be taken only in case of necessity, in accordance with law and procedure. For the present, we find no reason to entertain this writ petition.



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19. With the above observation, this Writ Petition stands disposed of.
No order as to costs. Consequently, connected miscalculation petitions are closed.

[G.J., J.] & [K.K.R.K., J.]
17.12.2025

Index : Yes/No
Internet : Yes
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Tiruchirapalli.
2. The Local Town Planning Authority,
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