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W.P.No. 3322 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR

W.P.No. 3322 of 2017
and
W.M.P.No. 3290 of 2017

Arulmigu Sundharamoorthy Vinayagar Temple,
7, Vadivel Main Road,
Perambur, Chennai - 600 011.
Represented by its Devotee/Festival Committee Member
B. Venkateswaran,
Son of P. Balakrishnan
69/1 Vadivel Main Road,
Perambur, Chennai - 600 011

.. Petitioner

VS

- 1.The Secretary to Government,
Housing and Urban Department,
Government of Tamil Nadu,
Secretariat,
Fort St George, Chennai - 600 009.
- 2.The Executive Engineer
Enforcement - Region Central Corporation of Chennai,
Regional Office - Central,
2nd Cross Street [East],
Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.



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3. P. Bakthavatsalam

4. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 8.

*(R4 impleaded vide order dated 5.12.18
made in WMP 37499/18 in WP 3327/17
by MVJ & RPAJ)*

5. The Commissioner,
Hindu Religious and Charitable Endowments Departmentt,
No.119, Uthamar Gandhi Salai
(Previously Nungambakkam High Road),
Nungambakkam, Chennai 600 034.

*(R5 suo motu impleaded
vide order dated 23.08.2024
in WP 3322/2017 by MSJ and KGTJ)*

6. The Tahsildar,
Perambur Taluk, Chennai.
*(R6 suo motu impleaded vide order
dated 8.1.2026 made in WP 3322/17
by ASMJ & MSKJ)*

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the 1st respondent bearing Letter No. 8032/UD-VII(1)/2016-3, dated 21.12.2016 and be pleased to set aside the same as unlawful and consequently forbear the 2nd respondent from demolishing ARULMIGU SUNDHARAMOORTHY VINAYAGAR TEMPLE situated at 7, Vadivel Main Road, Perambur, Chennai - 600 011.

For Petitioner : Mr.Vijay Shankar
for Ms.V.Srimathi

For Respondents : Mr.P.Anandakumar,
Government Advocate
for R1, R6



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Mr.R.Sivakumar for R4
Mr.D.B.R.Prabhu for R2
Mr.S.L.Sudarsanan for R3
Mr.S.Ravichandran, AGP for R5

ORDER

(Made by Dr. ANITA SUMANTH, J.)

We have heard Mr.Vijay Shankar, learned counsel appearing for petitioner, Mr.P.Anandakumar, learned Government Advocate for R1 & R6, Mr.Prabhu for R2, Mr.S.L.Sudarsanan for R3, Mr.R.Sivakumar, for R4 and Mr.S.Ravichandran, learned Additional Government Pleader, for R5.

2. W.P.No. 12172 of 2007 had been filed by one P. Bakthavatsalam arrayed as R3 in the writ petition. His prayer was for a direction to the Corporation to take appropriate action as against allegedly illegal construction made at New No.13, Old No.6, and New No.15, Old No.7, Vadivelu Mudali Street, Chennai – 600 011 by various persons, including by the Sundharamoorthy Vinayar Temple (Temple), situated on that road. That writ petition had been closed directing that no further construction should be made and no further encroachment should be permitted on the aforesaid road.

3. Pursuant thereto, an order was passed by the authorities, challenging which R3 in this writ petition had filed W.P.No. 30326 of



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2013 seeking once again a mandamus directing the Corporation to remove all unauthorized and illegal structures put up by the private respondents in that writ petition. A report was sought from the Corporation of Chennai, wherein, they had stated as follows:-

“15. I respectfully submit that during the field Inspection it is also noticed that Th.Ilangovan and Tmt.Shanbagavalli and A/M Sundaramoorthy Vinaayagar Temple, Represented by Mr.Balaji have put up structure unauthorizedly in the said private land and as such notices have been issued to those persons under Section 56 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, which is already informed to the Hon’ble Court.

16. I respectfully submit that besides that it is also noticed that Th.P.Bakthavachalam the petitioner has also constructed a house at No.5/11, Vadivelu Mudali Street by deviating from the sanctioned plan as follows:

Sl.No.	Floor	Sanctioned plan	As per Site	Deviation/ Unauthorised Construction
1	Ground Floor	861 sq.ft	1831 sq.ft	970 sq.ft
2	Set Back Deviation Fron	8’0”	Nil	
3	Right	5’0”	Nil	
4	Left	5’0”	Nil	
5	Rear	10’0”	Nil	
6	First Floor	Nil	443 sq.ft	443 sq.ft

17. I respectfully submit that further action cannot be taken due to Election Code of Conduct and also due to administrative changes of enforcement action. The Locking and Sealing and Demolition notices dated 17.06.2014 under Section 57 read with Section 85 of the Tamil Nadu Town and



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Country Planning Act 1971 has been issued to Mr.Ilangovan, Mrs.Shanbagavalli and also A/m Sundaramoorthy Vinaayagar Temple.

18. I respectfully submit that another notice vide Notice No. RDC CENTRAL/TP ENF/0476/2014, dated 17.06.2014 under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, was issued to the petitioner calling for the approved plan and the petitioner refused to receive the same, the notice has been affixed at the petitioner's house. Further action will be taken as per due process of law."

4. That writ petition thus came to be closed on 23.06.2014, the Division Bench noting that the private respondents as well as petitioner appeared to have put up unauthorized construction, and directing the Corporation to take action against them in accordance with law.

5. Notices were issued to the parties thereafter, and pending those proceedings, there was an inter departmental communication in Na.Ka.No.A1/06359/2015 dated 4.8.2015 from the Tahsildar, Perambur to the Assistant Engineer, Ayanavaram (extracted below) wherein, he states that since the property at Survey No.470/1 belongs to private individuals, no action is contemplated under the provisions of the Tamil Nadu land Encroachment Act, 1905:-

*From
Thiru M.Venkatraman
Tahsildhar
Perambur Taluk
Chennai -11*

*To
Assistant Engineer
Zone -6, Division-16
Ayanavaram
Chennai – 23*



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N.K.No.A1/06359/2015 dated 04.08.2015

*Sub: Land encroachment-
Chennai District-Perambur Taluk,
Perambur Zone-6, Division-16, Ward
No.70-in the Vadivelu Main Road, Door
No.7 a wall around Sundaramoorthy
Vinayagar Koil has been constructed
and thus there has been
encroachment -letter from Chennai
Corporation Assistant Engineer for
measuring the boundaries of the
temple-reg*

*Ref:Letter dated 20.07.2015 from
Assistant Engineer, Chennai
Corporation Zone-6*

*In the above letter the Assistant Engineer of
Chennai Corporation of Zone-6, Division-16 Ward No.70 of
Perambur Division as stated that in Division-16, Ward No.70
in the Vadivelu Main Road, Door No.7, around the
Sundaramoorthy Vinayagar Koil a wall has been put up
causing encroachment and wanted the boundaries to be
measured and intimated.*

*The above Survey number is recorded as below in the
permanent land register.*

<i>Village</i>	<i>-</i>	<i>Perambur</i>
<i>Block No.</i>	<i>-</i>	<i>24</i>
<i>T.S.No.</i>	<i>-</i>	<i>470/1</i>
<i>Classification</i>	<i>-</i>	<i>Quit Rent</i>
<i>Area</i>	<i>-</i>	<i>0.03.01.5 1k 1170 sq.feet</i>
<i>Adangal</i>	<i>-</i>	<i>Diwan Bahadur Arunachala</i>
<i>Mudaliar</i>		
<i>Use</i>	<i>-</i>	<i>Vacant land</i>
<i>Particulars</i>	<i>-</i>	<i>SD/ 58/53</i>



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There is a Pillaiyar temple in the Survey Number which was built 50 years ago by the residence of the area and repaired and Kumbabishegam was performed and continues to be a place of worship. The renovation work is progress for building of compound wall and roofing.

The Survey Number was inspected by Taluk Level Committee on 03.08.2015. It is hereby informed that as evident from the inspection the land said to have been encroached is not a Government land the action under the Tamil Nadu Encroachment Act 1905 cannot be taken.

*Sd/- 04.08.2015
Tahsildhar
Perambur Taluk
Chennai-11*

*Copy to
District Collector, Chennai-1
for favour of information*

6. The notices culminated in order dated 25.02.2016 that reads as follows:-

“

DE-OCCUPATION NOTICE

Notice No: REGIONCENTRAL/TPENF/1587/2016 Dated 25.02.2016

Sub: Corporation of Chennai – Town Planning Enforcement – Unauthorised& Deviated building at Door No D.No.7, Vadivelu Mudhali Street, Perambur, Chennai – 11. - De-Occupation Notice – Reg.

Ref : 1.Stop Work Notice / Notice Calling for Approved Plan No.TPENF/317/2014 Dt.13.01.2014

2. Locking & Sealing and Demolition Notice No.TPENF/079/2014



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Dt. 17.06.2014

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The Residential & Commercial building at Door No. D.No.7, Vadivelu Mudhali Street, Perambur, Chennai – 11 which is occupied by you is unauthorized and deviated construction as mentioned in Locking & Sealing and Demolition Notice as cited in the reference : 2. You have not furnished any reply against our Locking & Sealing and Demolition Notice as cited in the reference : 2.

Therefore you are hereby requested to discontinue the occupation of the premises within 7 days from the date of receipt of the notice, failing which action will be taken under Section 56 sub-Section (2a) and (5) clause (a) and (b) (I) and (ii) Town and Country Planning Act, 1971 as amended by Act 61 of 2008 to secure compliance of the unauthorised building and lock & sealing of premises and carrying out demolition of the unauthorized construction of building without any further notice to you.

Sd/-

AE/DN-70

Sd/-

AEE/Unit-16

Sd/-

Executive Engineer

(Enforcement – Region Central)”

7. As against the same, an appeal was filed by the petitioner under Section 80A of the Town and Country Planning Act before the Secretary to Government, Housing and Urban Development Department, that came to be rejected by way of the present impugned order dated 21.12.2016.

8. The Government records in the conclusion to the impugned order that though the land in which the temple was situated was only a small extent of private property, the temple had been expanded by laying of a new foundation and effecting additional construction. The petitioner had not obtained necessary permissions for the same under the Public Premises Act or planning permission from the relevant authority.



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9. The petitioner challenges the aforesaid order relying substantially upon report of Tahsildar dated 4.8.2015. Our attention is also drawn to the report of the Corporation, as recorded under order dated 23.06.2014, to the effect that the land neither belonged to the Corporation of Chennai nor the government and as per the records, the right vests in Diwan Bagadur Arunachala Mudaliyar.

10. In light of the variation in regard to the ownership of the land, we had, on 08.01.2026 directed the revenue authorities to survey the land in the presence of petitioner as well as private respondents and a file status report. Report dated 27.1.2026 has been filed by the Tahsildar, Perambur, wherein he sings a completely different tune. The operative portion of the report reads as follows:-

“3. I respectfully submit that as per the above mentioned order, the 6th respondent herein along with Sub-Inspector of Surveyor to survey the land in dispute as per the directions of this Hon’ble Court. It is pertinent to note that at the time of survey conducted by the 6th respondent’s official team, the petitioner as well as the son of the 3rd respondent who were also present.

4. It is respectfully submit that in pursuant to the field inspection about the survey is concerned, the following report which was prepared in a detailed below mentioned manner.

5. It is respectfully submit that the as per the Revenue Records and the TSLR, which clearly reveals that T.S.No. 791/4 Perambur Town, Ward No.1 Block 45 measuring an extent of 18 Grounds 2 Sq ft., is concerned which stands in the name of the following individuals (1) M.Natarajan (2) N.Rajakannu (3)



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*A.Munuswamy Mudaliyar and (4) Ranganathan and further on verification of the survey number T.S. 471/0 Perambur Town, Ward No.2, Block No.24 which is mentioned as Government Poromboke earlier there was Irrigation channel, that **Kammai used of irrigation for wet lands**. Now presently in the Permanent Land Register (PLR) which is classified as Government Poromboke.*

6. I respectfully submit that in the Block Map the said T.S.No. has colored in green and brown color that the temple which is situated in the street and Government Poromboke land. The details of encroachment which is mentioned the Block map for kind consideration.

7.I respectfully submit as per the order of this Hon'ble Court, conducted survey with the officials, prepared Block Map of Temple other revenue records."

11. A perusal of the above report reveals that there is no property such as Survey No.470/1 as recorded in proceedings dated 4.8.2015. Mr.Anandakumar has also filed a memo today confirming the position that on inspection it is found that there is no such survey number in the revenue records. He expresses some disquiet qua the report of the Tahsildar dated 4.8.2015 stating that all does not appear to have been well in the issuance of that report.

12. On a careful perusal of the material on record, it is clear that there are contrary views expressed by the parties over the years in regard to the ownership of the land on which the temple stands. In paragraph 5 of the status report, the Tahsildar has stated that TS. No.791/4 admeasuring 18 grounds and 2 sq ft stands in the name of certain individuals and TS No.471/0 is stated to be government poromboke,



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where earlier, there stood a kanmai for irrigation.

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13. On an earlier hearing, this Court appears to have directed the HR&CE authorities to takeover the temple and a fit person has also been appointed. Mr.S.Ravichandran, appearing for the HR&CE is unclear on whether the department is to manage the temple or otherwise. Learned counsel who appears for the temple is also unable to provide any clarity on the matter. Hence we leave it to the parties to come a decision in regard to this aspect of the matter.

14. We had specifically sought from the petitioner the basis upon which the impugned order is assailed and learned counsel does not put forth any response that merits consideration. In fact, there is no lacunae pointed out in the impugned order, same for reference to the communication dated 4.8.2015 that has been eschewed by the State as being incorrect. In light of the above discussion, and in the ultimate analysis, we confirm the order under appeal and dismiss this writ petition. No costs. Connected miscellaneous petition is closed.

[A.S.M, J.] [M.S.K, J.]
24.02.2026

Index: Yes/No
Neutral Citation: Yes
ssm



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To

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DR. ANITA SUMANTH,J.
and
MUMMINENI SUDHEER KUMAR,J.

ssm

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