

W.P.(MD)No.20405 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.20405 of 2025

and

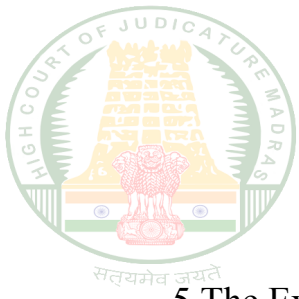
W.M.P.(MD)Nos.15797, 15799 and 15800 of 2025

Thangappan

... Petitioner

-VS-

- 1.The Secretary to Government,
Tamil Development and Information (Memorial) Department,
Secretariat,
Chennai.
- 2.The Secretary to Government,
Tourism Culture and Religious Endowments Department,
Secretariat,
Chennai.
- 3.The Commissioner,
Hindu Religious and Endowment Department,
Nungambakkam,
Chennai.
- 4.The District Collector,
Kanyakumari District,
Nagercoil.

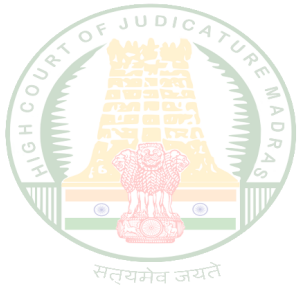


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- 5.The Executive Engineer,
Public Works Department,
Building and Maintenance,
Tirunelveli District.
- 6.The Executive Engineer,
Public Works Department,
Building and Maintenance,
Nagercoil,
Kanyakumari District.
- 7.The Executive Officer / Joint Commissioner,
Kanyakumari Temples,
Suchindrum,
Agasteeswaram Taluk,
Kanyakumari District.
- 8.The Assistant Commissioner (Admin),
Hindu and Religious Charitable Department,
Vadiveeswaram,
Agasteeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent made in G.O.(Per) No.256 Tamil Development and Information (Memorial) Department, dated 19.12.2023 and consequential proceedings of the third respondent in R.C.No.1231007/2025/V3, dated 14.03.2025 and quash the same and consequently, forbear the respondents from proceedings with the construction of building S.No.659/1, Thoivalai Village, Thoivalai Taluk, Kanyakumari District belongs to the Bhagavathi Kottaram Temple.



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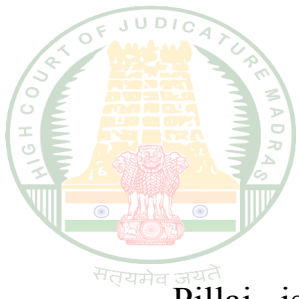
For Petitioner : Mr.R.Murali
For R1 to R6 & R8 : Mr.SS.Madhavan
Additional Government Pleader
For R7 : Mr.R.Shankar Ganesh
Standing Counsel

ORDER

By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner, a devotee of Arulmigu Bhagavathi Amman Kottaram Temple, situated at Thovalai Village, Thovalai Taluk, Kanyakumari District, which falls under the jurisdiction of the respondents 7 and 8, has approached this Court challenging the impugned Government Order in G.O.(Ms)No.256, Tamil Development and Information (Memorial) Department, dated 19.12.2023 and the consequential order of the third respondent / Commissioner, H.R. and C.E. Department, bearing reference R.C.No.1231007/2025/V3, dated 14.03.2025.

3. It is submitted that the impugned Government Order, which seeks to implement a proposal made by the former Chief Minister for the construction of a memorial and library in honor of Tamil scholar Kavimani Desiga Vinayagam

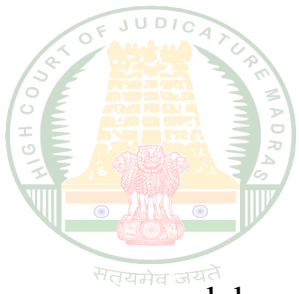


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Pillai, is impermissible in view of the judgment and decree of the Principal District Court, Kanyakumari District at Nagercoil in O.S.No.97 of 2020. The said suit was filed by the petitioner along with one Chandran, seeking a declaration that the suit schedule property absolutely belongs to the Arulmigu Bhagavathi Amman Kottaram Temple and for an injunction restraining the respondents 4 and 5 herein from putting up any construction or altering the physical features of the suit schedule property.

4. The said suit was decreed as prayed for, after contest. The H.R. and C.E. Department, represented by the Assistant Commissioner, remained absent during the proceedings. Despite this decree dated 27.07.2022, the impugned Government Order and subsequent communication from the third respondent proposes to lease 9.25 Ares out of 38 Ares of temple land in Thoivalai Village (Survey No. 3084/243 / Resurvey No.659/1) at a ground rent of Rs.6,500/- per month.

5. The learned counsel for the petitioner contends that as a devotee, the petitioner has *locus standi* to espouse the cause of the deity and that the writ petition is therefore maintainable. It is argued that the impugned orders are based

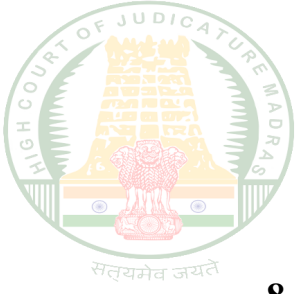


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solely on a legislative announcement made by the former Chief Minister on 16.06.2020, followed by a foundation-laying ceremony (Bhoomi Pooja), which cannot override judicial orders or statutory procedures.

6. The learned counsel for the petitioner further contends that the construction is not in the religious interest of the temple and that the entire procedure followed, both prior to and after the decree in O.S.No.97 of 2020, is contrary to Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"].

7. It is emphasized that when the law prescribes a specific procedure, it must be followed strictly. In this case, the respondents are allegedly proceeding with the construction in violation of such mandatory procedure. Upon a query regarding the nature of the land, the petitioner's counsel confirmed and the learned Additional Government Pleader as well as the learned counsel for the seventh respondent concurred that the land lies within an urban area. Furthermore, it is argued that leasing temple property perpetually without adherence to the requirements under Section 34(1) and the second proviso to the H.R. & C.E. Act is impermissible.



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8. The learned Additional Government Pleader submitted that the actions taken after the judgment dated 27.07.2022 are in accordance with the H.R. & C.E. Act and in furtherance of the policy declaration made in the assembly on 16.06.2020.

9. It is also contended that the petitioner is a mere intermeddler with no *locus standi* to challenge the decisions taken by the official respondents and the temple authorities (respondents 7 and 8) under whose control the land lies.

10. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Additional Government Pleader for the official respondents and the learned counsel for the seventh respondent.

11. The relevant portion of the impugned Government Order in G.O.(Ms) No.256, dated 19.12.2023, reads as follows:-

"6) அரசின் கவனமான பரிசீலனைக்குப் பின்னர், மாண்புமிகு முன்னாள் முதலமைச்சரின் அறிவிப்பினை செயல்படுத்திடும் பொருட்டு, இந்து சமய அறநிலையத் துறைக்கு சொந்தமான கன்னியாகுமரி மாவட்டம், தோவாளை வட்டம், தோவாளை கிராமம், புல



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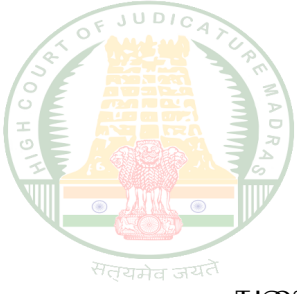
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எண். 659/1-இல் மருத்துவமனை என வகைப்பாடு செய்யப்பட்டுள்ள 0.38.0 ஹெக்டேர் நிலம், புல எண். 659/6 என புதியதாக உட்பிரிவு செய்யப்பட்டு 0.09.25 ஹெக்டேர் நிலத்தில் கவிமணி தேசிக விநாயகம் பிள்ளை அவர்களுக்கு மணிமண்டபம் அமைக்கப்பட்டு வரும் நிலத்திற்கு இந்து சமய அறநிலையத்துறை நியாய வாடகை குழுவால் நிர்ணயம் செய்யப்பட்டுள்ளவாறு மாத வாடகையாக ரூ.6,500/- னை இந்து சமய அறநிலையத் துறைக்கு செலுத்துவதற்கு ஏதுவாக நடப்பு நிதியாண்டிற்கு (டிசம்பர் 2023 - மார்ச் 2024 (4 x 6500)) ரூ.26,000/-ம் (ரூபாய் இருபத்தி ஆறாயிரம் மட்டும்) நிதி ஒப்பளிப்பு வழங்கியும் மற்றும் 2024-2025 ஆம் நிதியாண்டு முதல் தொடர் செலவினமாக ரூ.78,000/- க்கு நிர்வாக அனுமதி மற்றும் நிதி ஒப்பளிப்பு வழங்கியும் அரசு ஆணையிடுகிறது.

7) மேலே பத்தி 6-ல் ஒப்பளிக்கப்பட்ட செலவினம் கீழ்க்கண்ட கணக்குத் தலைப்பின் கீழ் பற்று வைக்கப்பட வேண்டும்.

"2220 செய்தி மற்றும் விளம்பரம் 60 ஏனையவை 106 கள விளம்பரம் - மாநிலச் செலவினங்கள் - AC பிரச்சாரம் மற்றும் தகவல் தொடர்புக்கான திட்டங்கள் - 306 வாடகை கட்டண வீதங்கள், வரிகள் - 01 வாடகை" IFHRMS (த.தொ.கு. 2220 □ 60 - 106 - AC 306 01)

8) மேலே பத்தி 6-இல் ஒப்பளிக்கப்பட்ட செலவினத்தினை மேற்கொள்ள தேவையான கூடுதல் நிதியொதுக்கம் ரூ.26,000/- 2023-2024-ஆம் நிதி ஆண்டிற்கான திருத்த மதிப்பீடு / இறுதி திருத்த நிதியொதுக்கத்தில் ஒதுக்கீடு செய்யப்படும். இந்நிதியொதுக்கம் செய்ய இருப்பதை எதிர்நோக்கி மேலே பத்தி 6-ல் ஒப்பளிப்பு செய்யப்பட்ட தொகையினை பெற்று வழங்கிட செய்தி மக்கள் தொடர்புத்

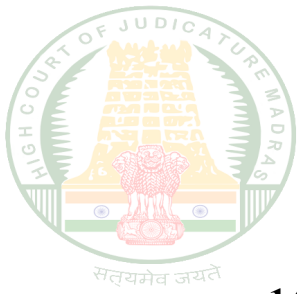


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தூறையின் இயக்குநர் அவர்கள் கேட்டுக்கொள்ளப்படுகிறார். மேலும், பத்தி 6-இல் அனுமதிக்கப்பட்ட இக்கூடுதல் செலவினத்திற்க்கான உரிய கருத்துருவை 2023-2024-ஆண்டிற்கான திருத்த மதிப்பீடு / இறுதி திருத்த நிதியொதுக்கத்தில் சேர்ப்பதற்கு தவறாது உரிய நேரத்தில் நிதி (த.வ (ம) செ.த்துறை)த் துறைக்கு அனுப்பி வைக்குமாறு செய்தி மக்கள் தொடர்புத் துறையின் இயக்குநர் கேட்டுக் கொள்ளப்படுகிறார்."

12. The Devasthanam, which exercises control over the land, has not raised any serious objection to the construction of a memorial in honor of the Tamil scholar Kavimani Desiga Vinayagam Pillai. The contention that the scholar already owns land in his native Village, viz., Therrur Village, Agasteeswaram Taluk, Kanyakumari District, is of no relevance, as the proposed memorial is intended to preserve and promote the rich Tamil heritage of Kanyakumari District.

13. Moreover, the respondents represent different wings of the Government and are not in conflict with one another. Therefore, by invoking the doctrine of indoor management, the argument that the procedures under Sections 34 and 34A of the H.R. & C.E. Act, were not followed cannot be countenanced.



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14. At best, the petitioner can contend that the Temple is being deprived of valuable rental income by leasing the land for a meagre sum of Rs.6,500/- per month. In this regard, I am of the view that the petitioner's submission warrants reconsideration by the respondents 1 and 3.

15. An extent of 9.25 Ares has been leased on a long-term basis for the construction of the memorial pursuant to the aforementioned Government Order issued by the first respondent. The fixation of rent at Rs.6,500/- per month, *prima facie*, appears to be below the market value and does not reflect a fair rent, particularly, considering the fact that the lease should have been executed in compliance with Sections 34 and 34A of the H.R. & C.E. Act.

16. To that extent, the impugned order fixing the rent is liable to be interfered with. Accordingly, the rent of Rs.6,500/- per month shall be treated as provisional rent, to be paid by the official respondents to the respondents 7 and 8.

17. The third respondent / Commissioner is directed to initiate proceedings for the fixation of fair rent under Section 34A of the H.R. & C.E. Act, in order to



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ensure that the Temple is not deprived of its legitimate income. This exercise shall be completed within six months from the date of receipt of a copy of this order.

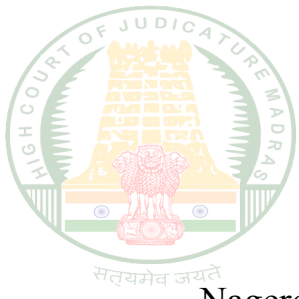
18. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
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28.07.2025

To:-

- 1.The Secretary to Government,
Tamil Development and Information (Memorial) Department,
Secretariat,
Chennai.
- 2.The Secretary to Government,
Tourism Culture and Religious Endowments Department,
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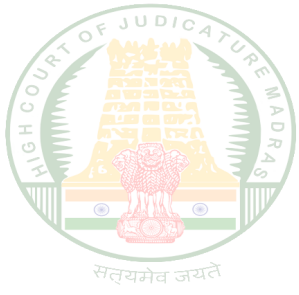


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Nagercoil.

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C.SARAVANAN, J.

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