

W.P.(MD).No.6262 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.04.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.(MD).No.6262 of 2022

and

W.M.P.(MD).No.4865, 4867 and 4869 of 2022

M.Nagarajan

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.Archaeological Survey of India,
represented by the Superintending Archaeologist,
Chennai Circle,
Chennai – 9.
- 3.The Assistant Commissioner / Executive Officer,
Arulmigu Sankararayanar Thirukovil,
Sankarankovil,
Tenkasi District.
- 4.The Commissioner,
Sankarankovil Municipality,
Tenkasi District.
- 5.The Block Development Officer,
Sankarankovil Panchayat Union,
Tenkasi District.



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6. The Commissioner,
Department of Archaeology,
Tamil Salai,
Egmore,
Chennai – 8.

7. The Tahsildar,
Sankarankovil Taluk,
Tenkasi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the second and sixth respondents to preserve the ancient monument and the religious institution namely Arulmigu Aruvam Soodiya Vinayagar Temple situated in Survey No.888/3 in Sankarankovil Village, Tenkasi and forbearing the fourth respondent Sankarankovil Municipality from construct an electric crematorium near the Arulmigu Aruvam Soodiya Vinayagar Temple in Survey No.888/3 in Sankarankovil Village.

For Petitioner	: Mr.S.Madhavan for Mr.M.Karthikeya Venkitachalapathy
For R-1, R-2, R-6 and R-7	: Mr.M.Lingadurai, Special Government Pleader.
For R-3	: Mr.V.R.Shanmuganathan, Standing Counsel.
For R-4 and R-5	: Mr.S.Shanmugavel, Additional Government Pleader.



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ORDER

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This Writ Petition has been filed for a Mandamus seeking for a direction to the second and sixth respondents to preserve the ancient monument and the religious institution namely Arulmigu Aruvam Soodiya Vinayagar Temple situated in Survey No.888/3 in Sankarankovil Village, Tenkasi and forbear the fourth respondent Sankarankovil Municipality from constructing an electric crematorium near the Arulmigu Aruvam Soodiya Vinayagar Temple in Survey No.888/3 in Sankarankovil Village based on the petitioner's representation dated 27.12.2021.

2. According to the petitioner, the aforementioned temple is an ancient temple. However, the respondents are now attempting to construct an electric crematorium adjoining the said temple which will be detrimental to the interest of the worshippers. The petitioner has given a representation on 27.12.2021 requesting the respondents 2 and 6 to preserve the ancient monument and religious institution and also to forbear the fourth respondent from constructing an electric crematorium adjoining the temple. Since the said representation has not been considered till date, the petitioner has filed this Writ Petition.

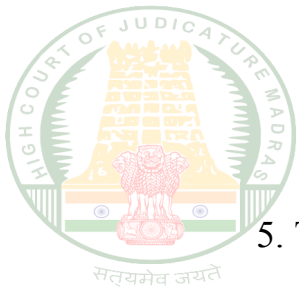


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3. Heard Mr.S.Madhavan, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1, 2, 6 and 7, Mr.V.R.Shanmuganathan, learned Standing Counsel, who accepts notice on behalf of the third respondent and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the fourth and fifth respondents.

4. The petitioner claims that he is a worshipper of the deity in the subject temple. The petitioner has produced documents and photographs along with the Writ Petition in support of his case that the construction of a crematorium adjoining the subject temple will be detrimental to the interest of the worshippers of the deity. It is for the official respondents to consider the same on merits and in accordance with law. The petitioner claims that the subject temple is an ancient temple and a crematorium, if constructed adjoining it, will be detrimental to its interest. The third respondent temple, which is represented by a learned Standing Counsel, also supports the case of the petitioner.

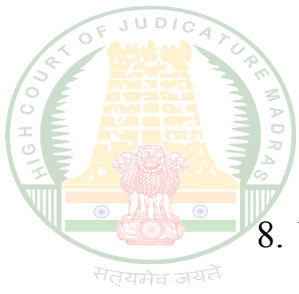


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5. The petitioner has given a representation on 27.12.2021 requesting the official respondents to preserve the ancient temple and to forbear the fourth respondent from constructing an electric crematorium adjoining the temple. Admittedly, the said representation has not been considered till date.

6. No prejudice would be caused to the respondents, if the petitioner's representation is considered on merits and in accordance with law, after affording a fair hearing to the petitioner and the third respondent temple as well as any other necessary party, whom the fourth respondent deems fit to enquire.

7. Accordingly, this Court directs the fourth respondent to consider the petitioner's representation dated 27.12.2021 requesting the official respondents to preserve the ancient monument and the religious institution namely Arulmigu Aruvam Soodiya Vinayagar Temple situated in Survey No.888/3 in Sankarankovil Village, Tenkasi and to forbear the fourth respondent from constructing an electric crematorium near the subject temple and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner and the third respondent temple including granting them the right of personal hearing, within a period of six (6) months from the date of receipt of a copy of this order.



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8. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.Archaeological Survey of India,
represented by the Superintending Archaeologist,
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- 3.The Commissioner,
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- 4.The Block Development Officer,
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- 6.The Tahsildar,
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ABDUL QUDDHOSE,J.

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