

WEB COPY

WP No. 49192 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 49192 of 2025

A.Sarath

Petitioner

Vs

1. The Commissioner,
Corporation Of Greater Chennai,
Chennai- 600 003.

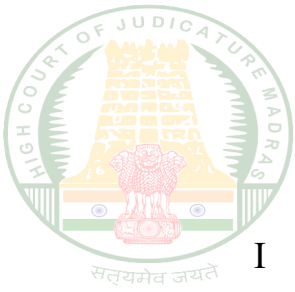
2.The Zonal Officer,
Zone No.VI
Corporation Of Greater Chennai,
Pttalam, Chennai- 600 012.

3.R.Daniel,
S/O. RAJ,
25, Gopalapuram, 2nd Street,
Thiru.Vi.Ka.Nagar,
Chennai - 600 082.
(R3 impleaded vide order dated
21.01.2026 made in Made
WMP.2013/2026 in WP.49192/2025

Respondents

PRAYER This writ petition filed under Article 226 of Constitution of India, praying to issue a direction to the 1st Respondent, directing the 2nd Respondent to take necessary action on complaint dated 13.09.2025 in accordance with law.

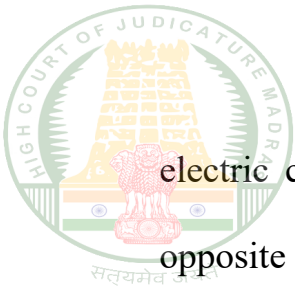
For Petitioner:	Mr.B.Kaarvannan
For Respondents:	Mr.E.C.Ramesh for R1 and R2
	Mr.R.Udaya Kumar for
	Mr.S.Baskar for R3

**ORDER**

I Heard Mr.B.Kaarvannan, learned counsel for the petitioner, Mr.E.C.Ramesh, learned counsel appearing for the respondents 1 and 2 and Mr.R.Udaya Kumar, for Mr.S.Baskar, learned counsel appearing for the third respondent.

2. The petitioner claims to be the owner of the property situated in door No.1, Andal Avenue 1st Street, Thiru.Vi.Ka.Nagar, Chennai 600 082. He had purchased the property on 25.11.2024 by way of a registered document in Doc.No.4187/2024. The petitioner pleads that prior to the purchase, he had physically visited the premises and noticed a raised structure adjacent to the entrance to the property. He was informed that the structure is only a temporary one and would be removed.

3. On the basis of this assurance, the petitioner proceeded to purchase the property. While carrying out repairs to his property, and also while taking steps towards the house warming function, he came to notice that, in the temporary structure which was already existing, a statue of Mother Mary had been installed. He pleaded that this structure is obstructing the main entrance of his house and also causes inconvenience to the pedestrians using the public pathway. He states that a tall pillar with an amplifier had been installed and an



electric connection was being drawn illegally from the house located on the opposite side of the road for the lighting and for operating the amplifier.

Shocked at this development, he made enquiries in the neighbourhood, but could not get any satisfactory response from anyone.

4. Taking note of the illegal super structure and the unauthorised drawing of the electricity connection, he approached the respondents by way of a representation on 13.09.2025. Though the representation was acknowledged, no action was initiated by the respondents. As the illegal structure had been raised on a public pavement, the petitioner is before this Court for issue of mandamus to take necessary action on the complaint that had been lodged by him on 13.09.2025 and for consequential orders.

5. When the matter came up for hearing on 19.12.2025, Ms.N.Lavanya, learned Standing Counsel, who took notice on behalf of Mr.E.C.Ramesh, for the respondents 1 and 2, stated that the Corporation officials would inspect the said area and submit a report to this Court. Taking into consideration that Christmas and New year celebrations were round the corner, I directed the inspection to take place after the celebrations are completed. I posted the matter yesterday for hearing.



6. When I took up the matter for hearing, Mr.S.Baskar brought to my attention that he had filed an application to implead one Daniel as a party to the said proceedings.

7. Mr.Daniel pleaded that he has been residing in the property at No.25, Gopalapuram 2nd Street, Thiru.Vi.Ka.Nagar, Chennai-600 082 from the time of his birth. He pleaded that he has been guided by the Christian values of faith, service, compassion, and communal harmony. He further pleaded that, in the year 1995, he, along with few friends, had established a small shrine of Mother Velankanni. From the very inception, he has been performing prayers and religious observances with devotion and discipline. He further urged that the shrine has been in existence for nearly three decades and it has become a place of faith, hope, and emotional strength for a large number of devotees who are residing in the locality. He further pleaded that, till the petitioner came along, the shrine was never a subject matter of objection or any complaint, which according to Mr.Daniel, indicates its acceptance and importance within the community. He pleaded that, since 1995, he and his friends have been continuously involved in maintaining the shrine and carrying on charitable and welfare activities connected with it.



8. In so far as the petitioner is concerned, Mr.Daniel states that the petitioner had purchased the property only in the year 2024. Even at that time of purchase, he asserts that the petitioner was aware that a statue of Mother Velankanni has been in existence. Being a resident of the locality, he states that the petitioner himself has been aware about the shrine and its long-standing presence. He asserts that the petitioner had purchased the property at a throwaway price and added that the petitioner is estopped from challenging or questioning the shrine's existence. Therefore, he urged that the attempt to demolish the shrine is unjust, arbitrary, and motivated. Appealing to emotions, Mr.Daniel urged that the shrine has been functioning peacefully for decades and its removal will not only affect the religious sentiments of devotees, but might result in breach of communal harmony, which has been carefully nurtured over the years. Hence, he pleaded that this Court should accept his averments, and protect the shrine from any arbitrary or unjust action, and ensure justice is done after hearing all the affected parties. Since Mr. Daniel pleaded that he had installed the shrine and had been maintaining it, considering him a proper party, I impleaded him as a party. I posted the matter today for hearing.

9. In the forenoon, Mr.B.Karvannan narrated the averments in the affidavit and pleaded that as the shrine has been erected on a public road, it is an encroachment which has to be removed. He pleaded that the electricity



connection given to the installations in the temple have been illegally drawn from across the street from a residential property. He pointed out that being an encroachment, it is the duty of the respondents to invoke the provisions under Section 128 of the Tamil Nadu Urban Local Bodies Act and sought appropriate orders to be passed in the writ petition.

10. Mr.Udayakumar, representing Mr.Bhaskar, urged that the shrine has been in existence for over three decades and that all the residents in the area offer their worship with utmost devotion. He states that though the petitioner has pleaded that his property is a house property, it is not so. According to him, it is a meeting hall and not a residential property. In addition, he urged that there is a small structure used by persons belonging to the Hindu persuasion for worshipping Lord Vinayaka. He states that while the petitioner seeks removal of the encroachment of Mother Velankanni, he is not even lifting a little finger against the structure erected by Hindus. A curious plea has been taken by him, by pleading that as the idol is a juristic entity, it has to be put on notice and, only thereafter, orders can be passed in the writ petition.

11. Mr.E.C.Ramesh brought to my notice that the subject property was inspected on 08.01.2026 and the Greater Chennai Corporation officials found that the shrine had indeed been constructed on a public road. Consequently, the



officials had requested the Regional Deputy Commissioner (Central) to initiate appropriate action for removal of the superstructure. He further added that, on 19.01.2026, the Regional Deputy Commissioner (Central), was convinced with the report filed by his subordinates, and after perusal of “The Town Survey Land Record (TSLR)”, he had concluded that the structure, in which the religious idol has been installed, is on a Sarkar Poramboke classified as road. Consequently, the Regional Deputy Commissioner (Central) issued a notice to the third respondent herein, calling upon him to remove the superstructure within a period of seven days from 19.01.2026.

12. On account of the fervent plea that has been made by Mr.Udayakumar that Mr.Daniel had installed the shrine, and that demolition of the same would be prejudicial to the religious sentiments of those who worship the deity, that I informed him that I would consider deferring the notice issued by the Regional Deputy Commissioner (Central) dated 19.01.2026, provided the third respondent, on his own, comes forward and files an affidavit undertaking to remove the superstructure raised by him on the public road.

13. Mr. Udayakumar requested time to file the affidavit. According to this request, I kept the matter back so as to enable him to file an affidavit.

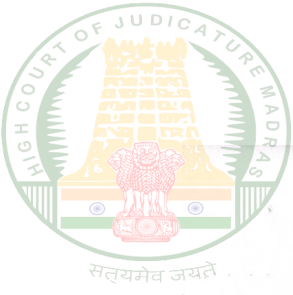


14. When the matter was called post-lunch, Mr.Daniel has filed an affidavit, stating that he got himself impleaded out of pure faith on his religion and that he might not be competent to single-handedly remove the existing deity or idol. However, he has given an assurance to this Court that **“he will take all measures to remove the illegal structure within a period of three weeks, as may be directed by this Court”**. He has also made allegations that the writ petitioner has indulged in acts of **“first-degree perjury”**.

15. He alleged in the undertaking affidavit that the writ petitioner's premises is used as a foot court (*sic*), and an illegal bar at nights and for sale of crackers and country bombs used during death processions. On account of such sale by the petitioner, he has made the following statement:

“Petitioner father man seriously injured and there would be a likely criminal case against him”.

16. For the sake of convenience, the affidavit filed by Mr.Daniel is scanned and extracted hereunder.



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WP No. 49192 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 49192 of 2025

A. Sarath
S/o. Mr. Anandan
No. 1, Andal Avenue, 1st Street,
Thiru. Vi. Ka Nagar, Chennai – 600 082.

...Petitioner

Versus

1. The Commissioner,
Corporation of Greater Chennai
Chennai – 600 003.

2. The Zonal Officer, Zone No. VI
Corporation of Greater Chennai
Pttalam, Chennai – 600 003.

... Respondent 1 to 2

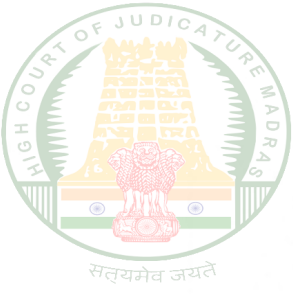
3. Mr. R. Daniel
S/o. Raj
25, Gopalapuram, 2nd Street,
Thiru. Vi. Ka Nagar, Chennai – 600 082.

... 3rd Respondent

AFFIDAVIT OF R. DANIEL/3rd RESPONDENT

I, Mr. R. Daniel, S/o. Raj, aged about 50 Years residing at 25, Gopalapuram, 2nd Street, Thiru. Vi. Ka Nagar, Chennai – 600 082, do hereby solemnly affirm and sincerely states as follows: -

1. I am the 3rd respondent in the above case and as such as I am well acquainted with the facts and circumstance of this case.



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2. I most humbly submit that I got myself impleaded out of the pure faith on my religion. I may not be the competent person to single handedly remove the existing deity/Idol. However, I solemnly assure this Hon'ble Court that I will take all measures and remove the illegal structure within three weeks as may be directed by this Hon'ble Court.
3. I further submit that the content of the affidavit is first degree perjury and the same can be proved beyond doubt. Hence the Hon'ble Court may be pleased to grant leave to me to initiate a separate action for having the petitioner punished in accordance with law.
4. The petitioner premises is portrayed as a marriage hall as seen in the name board. However, it is used as 1) Foot Court in the evening, 2) As illegal bar at late night and 3) They sell crackers and country bomb used during death procession, the petitioner father man seriously injured and there would be a likely criminal case against him.

I hereby solemnly affirm and assure this Hon'ble Court that the alleged Mary Mother Mandap and statue at gopalapuram, 2nd Street, Peravallur, Chennai would be removed in three weeks from the date of order.

Solemnly affirmed at Chennai on
this the 22nd day of January 2026
and the contents in this affidavit explained
in Tamil and signed his name in my presence

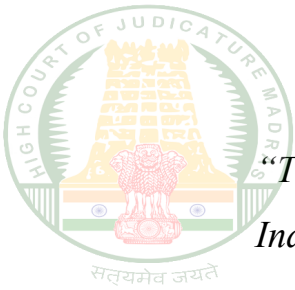
Before Me

[Signature]
Advocate, Chennai
K.Y. WARE
for Supra main
Chennai-99



17. I have carefully considered the submissions and gone through the records. As the facts have already been narrated in detail, I am not setting forth the same in this portion of the judgment. Upon perusal of the averments made in the affidavit and the affidavit filed by Mr. Daniel in support of the impleading petition, it is clear that the shrine has been constructed on a public pathway laid in S.R.P Kovil Street (North). It is also not in dispute that it is in front of door No.1, Block number 30, T.S.N0.79, Kolathur Village, Peravallur, Taluk, Chennai 600 082. The records produced by Mr.Ramesh pointed out that in the revenue records, the land on which the structure has been constructed, it has been classified as Sarkar Poramboke Street to an extent of 43.76 Ares. Of this extent, the shrine has been constructed to an extent of 8 sq.m on the public road.

18. The plea of Mr. Daniel is that he has put up the structure 30 years ago and it should not be removed. The Supreme Court, as well as this Court, have held that it is not open to any person to construct a religious structure on a public thoroughfare / road and, thereafter, project religious feelings as a ground to resist the removal of such encroachment (*see, Union of India Vs. State of Gujarat AIR Online 2009 SC 593*). It would be apposite to extract the view expressed by the Division Bench of the Karnataka High Court in W.P. No. 46839 of 2019, dated 14-07-2020, wherein Chief Justice Abhay Oka (as he then was) held as follows:



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“The fundamental right under Article 25 of the Constitution of India does not extend to offering worship or prayer at each and every place. Surely, the fundamental right under Article 25 of the Constitution of India cannot be invoked for protecting an illegal structure of a temple which is situated on a footpath. The right to construct an unauthorised temple, that too on a footpath, cannot be said to be an essential part of any religion or religious practice which can be protected under Article 25 of the Constitution of India.”

19. This view is a reflection of the views rendered by the Division Bench of the Allahabad High Court in ***Lavkush v. State of Uttar Pradesh [2016 SCC OnLine All 394] (Division Bench)***. Applying the said verdict to the present case, the plea of Mr. Udyakumar deserves to be rejected, and it is accordingly rejected.

20. Under Section 128 of the Local Bodies Act, it is the duty of the Commissioner to remove any encroachment from public place, that has been placed by encroaching a road, street or public place, or on a land belonging to or vested with the local body. Insofar as the immovable structures are concerned, the appropriate provision is section 128(1)(b). Under this provision, it is the duty of the Commissioner to ensure that a street or public place or the land belonging to or vested with the municipality, is kept free of any encroachments.



The Section contemplates that the Commissioner should issue a notice for such removal and the period of notice shall be seven days.

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21. A perusal of the notice issued by the Regional Deputy Commissioner (Central) dated 19-01-2026 shows that he has acted in full compliance of section 128(1)(b). A road or a street does not have any religious character. Irrespective of the nature of the superstructure, whether it is religious or irreligious, in case, it is an encroachment on a street or a public place or on a land vested to or belonging to a local body, the Commissioner is statutorily required to remove the same after due notice.

22. The plea of Mr.Daniel in the affidavit filed post-lunch that he is not a competent authority to single-handedly remove the idol, cannot be countenanced. This is because, while filing WMP No.2013 of 2026, his specific plea in paragraph number 3 of the said impleading affidavit is that, he, along with his friends, well-wishers, had established a small shrine by installing the idol of Mother Velankanni. The lengthy affidavit, which runs into several paragraphs, nowhere states that the land either belongs to him or any other private party. When the area on which the shrine has been constructed is admittedly a public road, the respondents 1 and 2 ought not to have permitted the encroachment. The plea that the idol has been in existence for more than 30



years, is no defence at all. Every minute, nay, second that an illegal superstructure is on a public road or a street, it gives a fresh cause of action to the Commissioner to invoke his power under Section 128 of the Act.

23. When admittedly, the structure is on a public road, the petitioner would be entitled for mandamus as prayed for. Consequently, the writ petition is ordered in the following terms:

- i. The respondents 1 and 2 shall proceed with the 128(1)(b) and 128(2) proceedings initiated by them in RDC(C).O.C.No.188/2026, dated 19.01.2026 in full vigor;
- ii. The notice period served on Mr.Daniel expires on 27.01.2026;
- iii. The Regional Deputy Commissioner (Central) shall wait for any response that might be given by Mr.Daniel to the notice issued under Section 128(1)(b) of the Act;
- iv. The Commissioner shall pass appropriate orders in terms of the said provision, and ensure its implementation, on or before 10.02.2026.

24. However, insofar as the allegations of the third respondent against the petitioner for acts of perjury and for illegal usage of his property is concerned, it need not be gone into in this writ petition. If Mr.Daniel is of the view that the writ petitioner has committed acts which invited the wrath of law, it is open to him to initiate such appropriate proceedings as may be open to him.



No costs. Call the matter for compliance on **11.02.2026** immediately after admission.

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The Regional Deputy Commissioner (Central) shall act on the web copy of the order and shall not wait for a certified copy.

22-01-2026

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Note: Issue Order copy on 23.01.2026

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

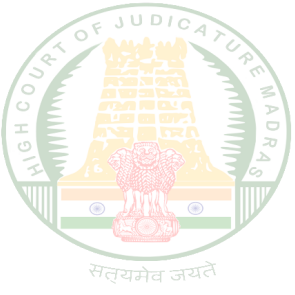
Neutral Citation:Yes/No

To

1.The Commissioner
Corporation Of Greater Chennai,
Chennai- 600 003.

2.The Zonal Officer, Zone No.Vi
Corporation Of Greater Chennai,
Pttalam, Chennai- 600 012.

3. The Regional Deputy Commissioner (North)
Chennai.



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V.LAKSHMINARAYANAN J.

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