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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.11.2025

Pronounced on : 01.12.2025

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.32317, 33112, 33197, 33724 and 34051 of 2025
and
WMP(MD) Nos.25422, 26867 & 26906 of 2025

in WP(MD)No.32317 of 2025 : -

Rama.Ravikumar ... Petitioner

Vs.

1.The District Collector, Madurai.

2.The Commissioner of Police,
Madurai City.

3.The Joint Commissioner,
HR&CE Department, Madurai.

4.The Executive Officer,
Arulmigu Subramania Swamy Temple,
Thirupparankundram, Madurai.

5.Sikkandar Badhusah Dharga,
Rep.by its Jamath Members,
Thirupparankundram, Madurai District.

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6.Hazarath Sultan Sikkandar Badhusha
Avuliya Dargah, Rep.by its
Managing Trustee,
Y.Ozeerkhan, Thirupparankundram,
Madurai – 5.

7.The Superintending Archeologist,
Archeological Survey of India,
Trichy Sub-Circle, Trichy – 620 002.

(R5 to R7 suo motu impleaded vide
order dated 19.11.2025)

8.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

9.The Tamil Nadu Waqf Board,
rep.by its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 1.

(R8 and R9 suo motu impleaded vide
order dated 24.11.2025)

10.M.Kannan @ Solai Kannan

(R10 impleaded vide order dated
24.11.2025 in WMP(MD)No.26086 of 2025)

11.V.Aranganathan S/o.G.Vasudevan

(R11 impleaded vide order dated
24.11.2025 in WMP(MD)No.26142 of 2025) ... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the Impugned proceedings in Na.Ka.No. 3527/2013/AA2 dated 03.11.2025 issued by the fourth respondent and quash the same as illegal, and consequently (ii) directing the fourth respondent to light the Karthigai Deepam at Dheepathoon (Ancient Stone Lamp Pillar), situated on Thirupparankundram Hill Top, in accordance with the directions of this Court in W.P.No.18884 of 1994 dated 21.11.1996, in the alternative, permit the petitioner to light the same on 03.12.2025 by making necessary administrative and security arrangements including the Bandobust scheme by the respondents.

in WP(MD)No.33112 of 2025 : -

M.Arasupandi ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Additional Chief Secretary
to Government,
Hindu Religious and Charitable
Endowments Department,
Secretariat, Chennai – 600 009.

2.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

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3.The Joint Commissioner,
HR&CE Department, Thirupparankundram,
Madurai.

4.The District Collector, Madurai.

5.The Commissioner of Police,
Madurai City.

6.The Executive Officer,
Arulmigu Subramania Swamy Temple,
Thirupparankundram, Madurai District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 6 to take all necessary steps and make appropriate arrangements to light the sacred Karthigai Deepam at the Dheepathoon (Ancient Stone Lamp Pillar) situated atop the Thirupparankundram Hill in accordance with the age-old religious customs and practices of Arulmighu Subramaniyaswamy Temple, Madurai henceforth ensuring that the said lighting of the Deepam at the Dheepathoon is performed in such a manner that the devotees and residents of Madurai District may receive the divine vision of the sacred flame from the top of the Hill, by considering petitioner's written representation dated 17.11.2025.

in WP(MD)No.33197 of 2025 : -

S.Paramasivam ... Petitioner

Vs.

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1.The District Collector, Madurai.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

4.The Joint Commissioner,
HR&CE Department, Thirupparankundram,
Madurai.

5.The Executive Officer,
Arulmigu Subramania Swamy Temple,
Thirupparankundram, Madurai.

(R5 suo motu impleaded vide order
dated 19.11.2025)

6.M.Vinoth S/o.Muniyandi

(R6 impleaded vide order
dated 24.11.2025 in
WMP(MD)No.26616 of 2025) ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the fourth respondent to light the Karthigai Deepam at Dheepathoon (Ancient Stone Lamp Pillar), situated on Thirupparankundram Hill Top, in accordance with the directions of this Court in W.P.No.18884 of 1994

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dated 21.11.1996 and by considering the petitioner's representation dated 16.11.2025.

in WP(MD)No.33724 of 2025 : -

A.Karthikeyan ... Petitioner

Vs.

1.The District Collector, Madurai.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

4.The Joint Commissioner,
HR&CE Department, Thirupparankundram,
Madurai.

5.Sikkandar Badhusah Dharga,
Rep.by its Jamath Members,
Thirupparankundram, Madurai District.

6.Hazarath Sultan Sikkandar Badhusha
Avuliya Dargah, Rep.by its
Jamath Members, Thirupparankundram,
Madurai – 5.

7.The Superintending Archeologist,
Archeological Survey of India,
Trichy Sub-Circle, Trichy – 620 002. ... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the fourth respondent to light the Karthigai Deepam at Dheepathoon (Ancient Stone Lamp Pillar), situated on Thirupparankundram Hill Top, in accordance with the directions of this Court in W.P.No.18884 of 1994 dated 21.11.1996 and by considering the petitioner's representation dated 19.11.2025.

in WP(MD)No.34051 of 2025 : -

R.Kanagavel Pandian ... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable
Endowment Department,
Chennai.

2.The Joint Commissioner,
HR&CE Department, Thirupparankundram,
Madurai.

3.The District Collector,
Madurai District.

4.The Commissioner of Police,
Madurai City.

5.The Executive Officer,
Arulmigu Subramania Swamy Temple,
Thirupparankundram,
Madurai. ... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondents herein not to deviate from the customary practice of lighting the Karthigai Deepam at the hillock in Thirupparankundram other than the lighting at the usual and traditional place at the Uchi Pillaiyar Temple.

	For Petitioner	**For Respondents**
WP(MD)No. 32317 of 2025	Mr.M.R.Venkatesh for Mr.R.M.Arun Swaminathan	Mr.J.Ravindran, Additional Advocate General assisted by Mr.M.Lingadurai, Special Government Pleader for R1
		Mr.A.Albert James, Government Advocate (crl.side) for R2
		Mr.Shanmugasundaram, Senior Counsel for Mr.G.Suriya Anandh, Additional Government Pleader for R3 and R8
		Mr.V.Chandrasekhar for R4
		Mr.T.Mohan, Senior Counsel for Mr.A.Syed Abdul Kather for R5
		Mr.G.Prabhu Rajadurai for R6
		Mr.K.Govindarajan, DSGI for R7
		Mr.D.S.Haroon Rasheed for R9
		Mr.Niranjan S.Kumar for R10
		Mr.S.Vanchinathan for R11

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WP(MD)No. 33112 of 2025	Mr.A.Kumaraguru	Mr.Shanmugasundaram, Senior Counsel for Mr.P.Subbaraj, Speical Government Pleader for R1 to R3
		Mr.J.Ravindran, Additional Advocate General assisted by Mr.M.Lingadurai, Special Government Pleader for R4
		Mr.A.Albert James, Government Advocate (crl.side) for R5
		Mr.V.Chandrasekhar for R6
WP(MD)No. 33197 of 2025	Mr.Anantha Padmanabhan, Senior Counsel for Mr.P.Subbiah	Mr.J.Ravindran, Additional Advocate General assisted by Mr.M.Lingadurai, Special Government Pleader for R1
		Mr.A.Albert James, Government Advocate (crl.side) for R2
		Mr.Shanmugasundaram, Senior Counsel for Mr.P.Subbaraj, Speical Government Pleader for R3 & R4
		Mr.V.Chandrasekhar for R5
		Ms.J.Anandhavalli for R6

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WP(MD)No. 33724 of 2025	Mr.P.Ponnu Rengan	Mr.J.Ravindran, Additional Advocate General assisted by Mr.M.Lingadurai, Special Government Pleader for R1
		Mr.A.Albert James, Government Advocate (crl.side) for R2
		Mr.Shanmugasundaram, Senior Counsel for Mr.G.Suriya Ananth, Additional Government Pleader for R3 & R4
		Mr.T.Mohan, Senior Counsel for Mr.A.Syed Abdul Kather for R5
		Mr.G.Prabhu Rajadurai for R6
		Mr.K.Govindarajan, DSGI for R7
WP(MD)No. 34051 of 2025	Mr.T.Lajapathi Roy, Senior Counsel for M/s.Roy and Roy Associates	Mr.Shanmugasundaram, Senior Counsel for Mr.G.Suriya Ananth, Additional Government Pleader for R1 and R2
		Mr.J.Ravindran, Additional Advocate General assisted by Mr.M.Lingadurai, Special Government Pleader for R3
		Mr.A.Albert James, Government Advocate (crl.side) for R4
		Mr.V.Chandrasekhar for R5

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COMMON ORDER

Rama.Ravikumar, who claims to be a devout follower of Lord Muruga applied to the Executive Officer of Arulmigu Subramania Swamy Temple, Thirupparankundram, seeking permission to light the Karthigai Deepam for this year. In response thereto, the Executive Officer of the Temple informed the petitioner that as per the established custom of the temple, Karthigai Deepam would be lit in the Deepa Mandapam near the Uchi Pillaiyar Temple that is located halfway up the hill. Challenging the said communication, WP(MD)No.32317 of 2025 came to be filed. The petitioner wants this Court to direct the temple management to light the Karthigai Deepam on the Deepathoon (Stone Lamp Pillar) which is located on one of the peaks of Thirupparankundram hill.

2.After the filing of WP(MD)No.32317 of 2025, few other writ petitions were also filed for the very same relief. Impleading petitions were filed, some supporting the claim that the festival lamp must be lit at the Deepathoon and some contending that the lamp should be lit

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only near Uchi Pillaiyar Temple. WP(MD)No.34051 of 2025 has been filed opposing the lighting of the lamp at the hilltop.

3.Counter affidavits had been filed by the Commissioner, HR&CE, the Executive Officer of the temple and the Managing Trustee of the Dharga.

4.Heard the learned counsel on either side at considerable length. Written submissions were filed and the learned counsel took me through their contents.

5.The only question that calls for consideration is whether the temple management can be directed to light the festival lamp at Deepathoon.

6.After taking me through the pleadings as well as the materials enclosed in the typed set of papers, the learned counsel for the writ petitioners (this expression would not include the petitioner in WP(MD)No.34051 of 2025) submitted that direction as sought for may be issued.

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7.This prayer has been fiercely and vehemently contested by the State, the temple management as well as the Dargha management and the Waqf Board. Their objections can be summarized in the following terms :

a) Thirupparankundram Hill houses not only the temple dedicated to Lord Subramaniya but also Sikkandar Badhusah Dharga. Both are ancient religious institutions. Just as the temple is held sacred by the Hindus, the Dharga is held sacred by the Muslims. While the Subramaniya Swamy Temple is located at the foot of the hill, the Dharga is located at the top. There is another temple dedicated to Lord Shiva and it is located in the midway. There are tombs situated in an area called Nellithoppu which is mostly a flat surface below the hilltop. Disputes arose between the temple management and the trustees of the Dargha. They were the subject matter of as many as four civil suits ie., O.S No.4 of 1920 on the file of the First Additional Sub Judge of Madura, O.S No.111 of 1958 on the file of the Sub Court, Madurai, O.S No.506 of 1975 on the file of the Sub Court, Madurai and O.S No.39 of 2011 (447 of 2004) on the file of the District Munsif, Thirumangalam. The issue can be finally resolved, if at all, only in a suit for demarcation.

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Unless the respective boundaries are clearly demarcated on ground, it is not possible to adjudicate the issue raised in the writ petitions. In any event, it is not possible to find an answer to the question raised by the writ petitioners in writ proceedings.

b) The writ petitioners do not have the locus standi to maintain the writ petitions. They do not have any right as such. Unless an enforceable right is shown to exist, a Writ of Mandamus will not lie.

c) The bone of contention is regarding the site where the festival lamp must be lit. For the last 100 years and more, the lamp is being lit near the Uchi Pillaiyar Temple and the priests have also certified that this is the customary practice to their knowledge. Near the Uchi Pillaiyar temple, there is a pillar for lighting the lamp and this practice is not contrary to Agamas (scriptures). It is the temple management that must decide the place of lighting. The writ court cannot take a call on this. Reliance is placed on the recent order passed by the Hon'ble Supreme Court rendered in Special Leave to Appeal (C) No.6554 of 2021 dated 16.11.2021.

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d) If according to the writ petitioners, there has been a breach of custom, the onus is on the petitioners to establish that the customary practice is to light the festival lamp on the Deepathoon. The petitioners have not placed any material in support of their claim. They have to be relegated to avail the remedy under Section 63 of the HR&CE Act before the jurisdictional Joint Commissioner.

e) When a similar attempt was made earlier, this Court negatived the prayer vide order dated 04.12.2014 in WP(MD)No.19422 of 2014. The Hon'ble Division Bench upheld the same vide order dated 07.12.2017 in WA(MD)No.1524 of 2014. The principle of *res judicata* will operate against the writ petitioners.

f) The bonafides of the writ petitioners is questionable. Rama.Ravikumar is a political activist. He has not made a full disclosure about his background. The petitioners want to create communal trouble and vitiate the tranquil atmosphere prevailing in Madurai.

g) Granting permission that the petitioners seek would run contrary to the provisions of the Places of Worship Act.

The respondents strongly submitted that the writ petitions are not maintainable and that they deserve to be dismissed.

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8.I carefully considered the rival contentions and went through the materials on record. It is not as if the parties are at loggerheads for the first time. Thirupparankundram Hill has been associated with Lord Muruga since ages and from time immemorial. Aga Nanooru is an anthology of very ancient Tamil Poems and belongs to what is known as Sangam Literature. Scholars agree that they are lot less than 2000 years old. In Song Nos.59 and 149, this hill is referred to as the hill of Lord Muruga. Song 59 was composed by Maruthanila Naganar. The third stanza starts with this line "சினம் மிகு முருகன் தண் பரங்குன்றத்து". Song 159 was composed by Erukkaatoor Thayang Kannanar. It contains the words "நெடியோன் குன்றத்து". Solomon Pappaiah's commentary states that it refers to Murugan's hill. The literary evidence is overwhelming and is in favour of the temple.

9.When Madurai near which this hillock is located came under Muslim rule, the hilltop came to be occupied and a mosque was constructed. Since the body of a Fakir is said to be interred, it is known as Dharga. As already mentioned, there is a temple at the foot of the hill and another temple halfway up the hill. There are tombs dedicated

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to Muslims below the hilltop and the Dharga. Frictions often arose between the Hindus and the Muslims. The issue was finally and authoritatively settled in O.S No.4 of 1920 on the file of the First Additional Sub-Judge of Madura.

10.The said suit was instituted by the temple management. It was a suit for declaration, injunction and recovery of possession. The Secretary of State for India in Council through the Collector of Madura was the first defendant. The local body as well as the Dargha management were also the defendants. Extensive documentary evidence was adduced along with oral evidence on either side. After an elaborate consideration, the learned Judge on 25.08.1923 decreed as follows :

> "(1) That the Plaintiff is the owner and has been in possession of the whole of Tirupparankundram hill and the Ghiri Veedhi, excepting assessed and occupied lands, the Nellitope, including the new mantapam, the flight of steps leading from the Nellitope up to the mosque and the top of the rock on which the mosque and the flagstaff of the Muhammadans stand;

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(2) that the Muhammadan Defendants 3, 4 and 8 to 13 are owners and are in possession of the Nellitope with all that it contains, the flight of steps mentioned above, the new mantapam and the whole of the top of the hillock on which the mosque and the flagstaff stand;

(3) that the mantapam referred to in paragraph III (d) of the plaint is a new one put up on the site of an old one as contended by the Muhammadans;

(4) that the Kasiviswanathaswamy temple and Theertham belong to Plaintiff;

(5) that the Ghiri Veedhi and other streets referred to in paragraph III(a) of the plaint are vested in the 2nd Defendant that the Plaintiff is not entitled to Sannadhi streets, but it is entitled to the Ghiri Veedhi subject to the rights of the 2nd Defendant under the Madras Local Boards Act; and

(6) that the Plaintiff is entitled to the trees on the sides of the Ghiri Veedhi and on the hill excepting such as belong to private owners.

And it is ordered and decreed that the Defendants be prevented by an injunction from interfering with the Plaintiff's possession of the properties declare above."

11. The learned Trial Judge during the course of his judgment rendered several findings which are relevant to the case on hand. After

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referring to a 1909 Government Order which states that the whole hillock is worshipped by the Hindu community as a Linga, the learned Judge found that the hill has been from pre-historic times deemed sacred by the Hindus and that it is essentially a Hindu place of worship. After failing to date the construction of the tomb, the learned Judge observed that the Hindus have been regarding the hill as holy, the holiness of which is found mentioned in Hindu works older than the advent of the Prophet in Arabia. The hill was an endowed property of the temple management. The devasthanam was in undisturbed possession of the hill which represents Siva Linga and in which God Subramaniya is enshrined. The temple itself is not a separate structure but is cut out of the rock. The back of the image of the Lord is the rock itself. The devasthanam was not deprived of its possession of the hill either by the Muslims or the British Government. It was all along in possession of the hill and its adjuncts excepting occupied and assessed portions. The devasthanam was recognised as the owner of the hill. Even the Muslim rulers and the British Government who succeeded them allowed the devasthanam to continue in undisturbed possession. There is no record to show that the hill itself was seized during Muslim

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conquest. When the government issued notification under Madras Forest Act, Thirupprankundram hill was expressly excluded. The British government never took possession of the hill by ousting the devasthanam. When quarrying activities were sought to be conducted, the local Hindu community strongly opposed the same and the quarrying was halted.

12.The learned Judge noted that the mosque is located at the top of the hill that is on the topmost peak of the hill, which is somewhat detached from the portion East and North of it by a valley which though deep is still very much higher than the base of the entire hill. The hill contains two prominent peaks. The Hindu God Subramaniya is at the base of the lower of the two peaks. The mosque is at the top of the higher peak. The mosque is known as Sikkanthar Pallivasal. The mosque was probably a small memorial originally but later extended so as to occupy the whole of the top of the particular hillock. The establishment of the mosque at a higher place than the Hindu shrine might have been due to religious fervor, frenzy or rivalry. The learned Judge remarks that the devasthanam chose to keep quiet either due to

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the political helplessness of the Hindu community of those times or on account of the spirit of toleration so very characteristic of the Hindu mind. But the undisputed fact is that for over a century, the mosque has been in existence in the exclusive possession of the Muslims.

13.The learned Judge further noted that the Muslims did not confine their appropriation to the site of the mosque alone. They have been using the place marked "Nellithope" as a burial ground. The learned Judge personally inspected the spot and found a number of tombs in "Nellithope". The burial of the dead within the sacred precincts of a temple is obnoxious to Hindu notions of religious property. There is also a Mandapam in Nellithope and the finding was that the Muslims were in possession of Nellithope and have acquired title to it.

14.From the western end of Nellithope, a huge rock rises up and the mosque stands at the top of that rock. There is a flight of steps cut out of the rock in a rude fashion going up to the mosque. This flight of steps must have been constructed to enable the worshipers at the

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mosque to reach the place. The only sacred place up the flight of steps on the summit of the rock consists of the mosque and its adjuncts. The evidence of the Huqdars of the mosque in regard to the rest of the hill that is portions other than the top of the rock on which the mosque stands, the Nellithope and the flight of steps was not satisfactory. The evidence of enjoyment of the trees by the Huqdars was meagre and inconclusive.

15.Attempts were made by the Hindus to put up lights at the summit of the hillock on which the mosque stands, once in 1862 and again in 1912. In both cases, the Magistrate stopped the lighting because it was not customary to put a light there and probably because a breach of the peace was apprehended.

16.Aggrieved by the above judgment and decree dated 25.08.1923, the trustees of the mosque filed A.S No.34 of 1924 before the Madras High Court. The Hon'ble Division Bench reversed the decision of the trial court and dismissed the suit on 04.05.1926. The Hon'ble Division Bench was satisfied that the government's ownership

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of the hill had been satisfactorily proved. After noting that the temple management as well as the Muslims have established certain distinct rights, the appellate court felt that in that suit which related mainly to the ownership of the hill, it was not necessary to discuss the rival claims between the Hindus and the Muslims. Ironically, the appeal was filed only by the Muslims. The government was not even interested. Only at the prodding of the court, a cross appeal was filed by the government and it was eventually allowed.

17.The temple management went to the highest court ie., the Privy Council which set aside the High Court's judgment and restored the decision of the trial judge. The Privy council observed that the construction of the mosque was an infliction which the Hindus might well have been forced to put up with. But this was no evidence that the remainder of the hill was expropriated from the Hindus. **The unoccupied portion of the hill has been in the possession of the temple from time immemorial and has been treated by the temple authorities as their property** and that the conclusion of the trial judge was right and that there was no ground to disturb his decree. The Privy council restored the trial court's decree dated 25.08.1923.

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18.When the Dargha trustees began to put up a foundation at Nellithope for construction of a building and had also cut 600 to 800 stones of the size of one cubic foot, the temple management filed O.S No.111 of 1958 for injunction and damages. The suit was disposed of on 02.12.1959 by restraining the trustees of the mosque from cutting stones from any rock outside Nellithope and assessed and occupied area as described in the prior judgment in O.S No.4 of 1920. Their exact location was to be determined in a fresh suit. Aggrieved by the same, A.S No.90 of 1960 was filed before the District Court and the District Court made it clear that this demarcation may be done in execution proceedings. Pursuant thereto, in E.P No.163 of 1962, an Advocate Commissioner was appointed and he also filed a sketch. The E.P was disposed of as follows :

> "1.That the permanent injunction granted to the petitioner / plaintiff in this suit, shall not operate as regards the Nellitope including the pond;
>
> 2.That the respondents / defendants shall have a right of way to the pond from the flat space with trees and tombs indicated in the 'C' sketch, attached hereto;
>
> 3.That the parties to this case, shall bear their respective costs, namely, petitioner – Rs.Nil and -- respondents – Rs.Nil."

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Since those in management of the mosque attempted to disturb the status quo, O.S No.506 of 1975 was filed by the temple management. The suit was dismissed vide judgment and decree dated 22.11.1978. Aggrieved by the same, the temple management filed A.S No.39 of 1980 before the District Court and the suit itself was allowed to be withdrawn with liberty to file a fresh suit on the same cause of action.

19.When the government introduced a scheme for electrification, it could not be carried out on account of disputes between the temple and the mosque. That led to filing of O.S No.39 of 2000 and later A.S No.173 of 2011 on the file of Sub Court, Thirumangalam. Not much turns on the findings set out in the said suit.

20.In early 1990s, the issue once again cropped up. An organisation known as Hindu Munnani took up the issue. Agitations were conducted. Thiru.Rajagopalan, the State President of the Organisation was in the forefront. He was brutally assassinated in October 1994. In the wake of this tragedy, move was afoot to light the festival lamp on the top of the hill. One V.Thiagarajan who had

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apparently broken ranks with Hindu Munnani started another forum known as Hindu Bakthajana Sabhai filed WP No.18884 of 1994 to forbear the temple management from doing so. This writ petition was disposed of on 21.11.1996 in the following terms :

> "1.The parties shall remember, recognise and respect the decree of the Sub Court, Madurai in O.S.No.4 of 1920;
>
> 2.The Devasthanam, which is the owner of the hill to the extent indicated in the abovesaid decree shall alone light the Deepam in Thirupparankundram hill and they alone shall light the Deepam ordinarily in the traditional place of the Mandapam at Subramaniyaswami Temple near Uchipillaiyar Kovil. This year viz., for the year 1996, it is stated that the Karthigai Deepam festival positively falls on Sunday the 24th day of November, 1996. There is hardly three days for the festival. Therefore, I direct that this year the Devasthanam shall light the Karthigai Deepam in the usual place as directed by me in the years 1994 and 1995 in W.M.P.Nos.28622 of 1994 and 24619 of 1995, dated 17-11-1994 and 1-12-1995 respectively. The Devasthanam shall not also allow any other person to light the Deepam in any other place during this year viz., on 24-11-1996;
>
> 3. Subject to the clause 4 and with a view to respect the wishes of the worshippers, it is open to the Devasthanam to permit the

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lighting of the Deepam for future years at any place in Thiruppankundram Hill with the prior permission of the Authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959;

and

4.While permitting any other person to light the Deepam in any other place or if the Devasthanam itself wants to light the Deepam in any other place they shall have due regard to the nearness of the Dargah and only choose a suitable place atleast 15 meters away from the Dargah, the flight of steps and the Nellithope area, and places declared to hereby to the 8th respondent under the clause 2 of the decree in O.S.No.4 of 1920."

The bedrock of the petitioners' case is clauses (3) and (4) extracted above.

21.Before dealing with the merits of the claim, let me consider the objections raised by the contesting respondents. That the demand to light the lamp at the Deepathoon has been made by Hindus who are worshipers of Lord Subramaniya and who are devotees of the temple. They are definitely "persons having interest". Section 6(15) of the Tamil Nadu HR&CE Act, 1959 defines a "person having interest", in the

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case of a temple, as a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat. The petitioners being Hindus are obviously entitled to offer their worship and they are persons interested. The Hon'ble Division Bench of the Madras High Court in the decision reported in ***2011 (4) CTC 48 (T.K.Saminathan v. the Special Commissioner and Commissioner of Land Administration***) held that a devotee of a temple has locus standi as he is a person interested. That was a case for evicting encroachers.

22.The learned Senior Counsel appearing for the Dharga drew my attention to the Full Bench decision rendered in ***T.R.Ramachandra Iyer v. Ponniath Akathuthu Parameswaran Munpu (1919) 9 L.W 492*** and contended that it is not enough that if the petitioners merely claim that they are interested in the temple as any ordinary Hindu. They must have a present and substantial interest. This submission deserves summary rejection. The judgment was rendered when the Tamil Nadu HR&CE Act was not in the statute book. It was a

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case filed under Section 92 of CPC. As per Section 5 of the HR&CE Act, Section 92 and 93 of CPC shall cease to apply to Hindu Religious Institutions and Endowments. Principles of law rendered in the context of Section 92 of CPC cannot be pressed into service. What must be seen is whether the claimant will fall within the sweep of the definition set out in Section 6(15) of the Tamil Nadu HR&CE Act, 1959. The petitioners pass muster on that score.

23.There is also no merit in the submission that the petitioners must be called upon to move the civil court to file a suit for demarcation. The dispute regarding title was settled in 1923 itself. The Hon'ble Privy Council had upheld the judgment of the Sub Judge of Madura. The decree and the findings set out in O.S No.4 of 1920 had been extracted in extenso already. The Muslim community's title was upheld in respect of only three areas of the Hill.

a) Nellithope area

b) The flight of steps cut out in the rock towards the mosque

c) the actual site where the mosque stands

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The Privy Council had held that other than these three, the devasthanam has title and possession over the rest of the hill. The suit was one for declaration as well as injunction. Demarcation of the Nellithope area was also subsequently done in EP No.163 of 1962 dated 24.04.1965. Nellithope is well below the upper portion of the hill. Injunction in favor of the temple was reiterated in O.S No.111 of 1958 and it was clarified in E.P No.163 of 1962 that this injunction will not operate for the temple only as far as the Nellithope area is concerned. The entire upper portion of the hill did not belong to the Dargha. Only the actual site of that rock alone which is the highest summit on which the mosque had been built alone vests with the Muslims. The learned Trial Judge in O.S No.4 of 1920 himself recognised that the Hindu shrine lies at the base of the lower summit. The existence of two summits is recognised in the said judgment which had become final and affirmed by the highest court of the land then. It is not the case of the contesting respondents that the petitioners want to light Deepam in Nellithope area. When Nellithope had already been demarcated and the site of lighting the lamp is not in Nellithope area, there is no need to go to civil court yet again. The civil courts have already conclusively

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decided the issue. The temple management had to file suits subsequently only because the trustees of the mosque tried to disturb the existing arrangement.

24.The contesting respondents in unison proclaimed that the present round of litigation is hit by res judicata. They rely on the order dated 04.12.2014 in WP(MD)No.19422 of 2014 which was confirmed by the Hon'ble Division Bench vide order dated 07.12.2017 in WA(MD)No. 1524 of 2014. I see no merit in this objection also. The petitioner in WP(MD)No.19422 of 2014 wanted the Deepam to be lit at the hill top. He further argued that lighting the lamp near Moksha Deepam is not in consonance with the scriptures. The learned Judge rightly rejected the request. This was because the title over the hilltop has already been declared as vesting in the Muslims. **A settled issue cannot be reopened.** But the petitioners before me do not insist that on the hilltop, the lamp should be lit. They only want the lighting of the lamp at the Deepathoon. Deepathoon is not at the hilltop. There are two peaks. The mosque is at the highest peak. The Deepathoon is at the lower peak. The trial Judge in O.S No.4 of 1920 himself recognised

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that while the mosque is at the highest peak, the Hindu God Subramaniya is at the base of the lower of the two peaks. Deepathoon is not an occupied portion of the Muslims. The Privy Council had held that the unoccupied portion of the Hill belongs to the Hindus. I posed a specific question to the contesting respondents ; Whether the Dargha has been compounded ? They conceded that the Dargha has been compounded. Deepathoon admittedly is located at a lower peak at a distance of not less than 50 meters from the mosque. I, therefore, conclude from the civil court judgments mentioned above that the Deepathoon which is in the unoccupied portion belongs exclusively to the temple.

25.Deepathoon or stone lamp pillar can be defined as a circular oil lamp made in stone held by a stem standing on a circular base. The structure that is found on the lower of the two peaks perfectly answers this description. On the other hand, a flagstaff is a post usually covered with metal plate put up permanently on a pedestal within the temple and in front of the deity for hoisting the temple flag at the commencement of the temple festival. Dargha worship is an anathema

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to conservative Muslims. Some of the Hindu practices of worship have been absorbed by the followers of Sufi Cult. Dargha is a concrete manifestation of this. They also have annual festivals known as Kandhuri. The flag is hoisted on the flagstaff. Obviously, it would be within the Dargha campus. It will not be outside. There is a flagstaff within the Dargha campus. But efforts are made to tie the flag to a tree branch far away from the Dargha. The trial Judge in O.S No.4 of 1920 had held that Dargha cannot have any claim over the trees. In any event, a Deepathoon is what it is. It is not a flagstaff. The very purpose of Deepathoon is to light lamp thereon. Res Ipsa Loquitor. The thing speaks for itself. A Deepathoon at this spot would not have been put up for aesthetic value. Obviously, it is not an ornament. It has an instrumental value and that is to facilitate lighting lamps on occasions such as this.

26.That the Deepathoon is a temple property is proved by the recent happenings. Apprehending that some overenthusiastic Hindu may attempt to light the lamp, the temple management had hurriedly put up a covering. In the affidavits filed in support of the writ petitions,

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this has been referred to. I posed a specific question to the counsel for the contesting respondents ; Who put up the covering around the Deepathoon ? It was admitted that the temple management had done so. If the Deepathoon and the adjoining area belonged to the Dargha, the Dargha would not have kept quiet or permitted the temple authorities to put up the covering. This single instance is sufficient to falsify the case projected by the Dargha management.

27.The Dargha is at an elevated altitude compared to Nellithope area. The judgments speak of flight of steps from Nellithope which means that the boundary of Nellithope stops with the flight of steps. As one ascends the steps, there is a divergence. The place is more like a fork. The steps lead towards on the Dargha on the one side. The Deepathoon is on the other side. One has to climb on the rocks to reach the Deepathoon. Spiritually all paths may lead to one truth. But this spiritual truth is not in sync with geographical reality. The paths that lead to the Dargha will not take one to the Deepathoon. They diverge and the divergence is too obvious. Just like the Sub–Judge, I too personally visited the spot. In fact, it was not a secret visit. I made an

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announcement in the open Court. It was a standing invitation to the counsel to join. Only after making such an announcement, in the evening, I visited the spot. I climbed the steps that led to Nellithope and further climbed the steps from Nellithope. I noted that on one side lies the Dargha and on the other the stone lamp pillar. I am however not anchoring my conclusion on any personal observation. I visited the spot more to satisfy my judicial conscience.

28.In WP(MD)No.19422 of 2014, the petitioner tried to argue that lighting the lamp at the existing site is not proper. Moksha Deepam is lit in memory of the departed. The festival lamp is also lit near that spot. The petitioner in the said writ petition took exception to this practice. But he was not able to substantiate his claim and therefore, his writ petition was dismissed. The counsel who argued before me did not call for discontinuing the existing practice. Let one more lamp be lit at the Deepathoon is what they pray. This in my view clearly takes the present round of proceedings outside the spell of *res judicata.*

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29.Section 63 of the HR&CE Act empowers the Joint Commissioner to decide what are the customs which have to be upheld. The respondents argued that the petitioners should go before the authority and prove that there was a custom of lighting the lamp at Deepathoon. They assert and with considerable heat and vehemence that at least for the last 100 years and more, the lamp was not lit at the Deepathoon.

30.The contesting respondents have lost sight of a fundamental aspect. The question is not one of custom. The question is one of right. Lighting lamp atop the hill is a Tamil tradition. There is a popular saying "Kundrin Mel Itta Vilakkai Pola" (Like a lamp lit atop the hill). Seevaga Chinthamani is one of the five great Tamil epics. It contains the following lines :

துன்றித் திரண்ட தோளிணை
மேலும் குன்றிற் கார்த்திகை
விளக்கிட்டன்ன கடிகமழ்
குவளைப் பைந்தார் கமழப்
பளிங்கின் குன்றுபோற் பாயல்
சேர்ந்தான்

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The reference to Karthigai Deepam in the above stanza indicates that the Tamil people have the tradition of lighting lamps atop the hill during the Tamil month of Karthigai. Thiruvannamalai is a well known pilgrim centre. Just like Thirupparankundram hillock, the hill of Arunachala itself is worshiped as Lord Shiva. In Arunachala Puranam, the mythology behind the appearance of the Lord in the form of light on the hilltop is sung in verse. That is why on a particular day every year during Tamil month of Karthigai, in Thiruvannamalai, at the hill top, Karthigai Deepam is lit. Opposite the Madurai Bench of the Madras High Court, there is Yanai Malai. It contains the rock cut temple dedicated to Lord Narasimha. They also have the tradition of lighting lamp atop the hill. The writ petitioners are justified in demanding that the temple management resumes or restores this tradition. Even if it is not a matter of custom, asserting the title of the temple over the lower peak by lighting at the Deepathoon is imperative.

31.In the Madras High Court, there is a practice of closing the four outer gates for 24 hours once a year. The public are informed that no one will be allowed to enter. This is to prevent easement claims by

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the public. The case on hand is something similar. The 1923 judgment has clarified who owns what. But that did not deter the mosque trustees from disturbing the status quo. It is therefore necessary that the temple management remains vigilant throughout to foil any attempt to encroach on its property. This can be done only by regular and periodical assertion of title. It is not a matter of religious tradition alone. At least, for the sake of protecting its property, the temple management is obliged to light the festival lamp at the Deepathoon.

32.The Hon'ble Division Bench of the Madras High Court comprising Their Lordships Mr.Justice R.Mahadevan (As His Lordship Then Was) and Mr.Justice P.D.Audikesavalu vide order dated 07.06.2021 in ***Suo Motu W.P.No.574 of 2015 and WP(MD)No.24178 of 2018*** while emphasising the importance of preserving the temple properties directed the HR&CE Department as well as the temple managements to ensure that all the temple properties are preserved, maintained and protected. The temple management in the instant case appears to have forgotten the lessons of history. As caustically commented by Ms.Anandhavalli, learned counsel, all the earlier

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litigations were launched by the temple management. But now the temple management is on the same page as that of the Dargha. While amity is to be celebrated, rights of both the parties have to be respected. Rights of one party cannot be sacrificed. When the Dargha management recently asserted that the hill is not Skandar hill (another name of Lord Muruga) but Sikkandar hill (Sikkandar is the name of the Fakir whose body is said to be interred in the Dargha) and attempts were made to offer animal sacrifice in the hill premises, the cause was taken up not by the temple management but by the devotees and activists. The case saw a cleavage of opinion between the two Hon'ble Judges. The matter was referred to a third Judge (The Hon'ble Mr.Justice R.Vijayakumar). His Lordship held that animal sacrifice is impermissible in Nellithope area. I refer to the order dated 10.10.2025 in WP(MD)Nos.2678 of 2025 etc., only to highlight the fact that the activists and devotees alone are in the forefront and the temple trustees are keeping quiet.

33.The Hon'ble Supreme Court in ***Bishwanath v. Sri Thakur Radha Ballabhji, 1967 SCC OnLine SC 8*** held that a worshiper is

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entitled to take action to safeguard the interest of the idol when the trustee fails to discharge his duty of protecting its interest. This decision has been followed in several subsequent decisions and is still holding the field. In ***Rama Jenma Boomi case, (2020) 1 SCC 1,*** it was held that even an idol cannot be a perpetual minor so as to seek exemption from the operation of the Limitation Act. Of course, Section 109 of the HR&CE Act states that Central Act 36 of 1963 (Limitation Act) will not apply to any suit for possession of immovable property belonging to any religious institution or for possession of any interest in such property. This Section may come to the rescue of the temple when it is the plaintiff. But the rights of the temple cannot be left to legislative vagaries. Assuming that Section 109 is not there in the statute book or it is deleted, the temples and religious institutions cannot recover properties that have been extinguished due to limitation. This underscores the need to keep asserting one's right and ensuring that it is not taken away.

34.The Madras High Court in the decision reported in AIR 1945 Madras 234 had held as follows :

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> "It is an elementary right of every worshipper of a public temple to have the usual festivals conducted in the usual manner and to be allowed to take part in them in the usual manner. There are cases in which for reasons of their own trustees prevented particular members of the public who were worshipping in a particular form in the past from conducting the worship by either not taking the deity at all for worship to the street where the particular worshipper was residing as was done in the past or in preventing him from offering the worship in front of his residence. In all these cases it is recognised that the right is a civil right which every worshipper has as an individual and that he is entitled to the protection of the Court in the exercise of his right..."

I would extend this principle. This right would include not only "what is" but also "what ought to be". The writ petitioners justifiably remind the temple management about the Tamil tradition and point to the fact that the very purpose of having erected a Deepathoon is that lamp should be lit there. The mandate of the Hon'ble Division Bench in the above suo motu writ petition is that the temple management has the duty to protect its properties. Failure to maintain vigilance and that too eternally will lead to eventual loss of the right itself. The entire hill is a

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sacred one. On account of invasion and occupation, portions have been lost. At least what remains should be preserved. This is what the petitioners pray. I have no difficulty in coming to the conclusion that the temple management has a legal duty in the matter and that duty has not been discharged.

35.As rightly argued by the learned counsel, this issue has already been dealt with in WP No.18884 of 1994. The directions 3 and 4 are particularly relevant. The Hon'ble Judge had stated that the prior permission of the authorities under the Act must be obtained if the devasthanam is to permit the lighting of the Deepam by private individual at any place other than the Uchipillaiyar site. Since the devasthanam is going to be tasked with lighting the deepam, there is no question of obtaining permission from the HR&CE authorities. Even otherwise, I fail to see as to why the HR&CE authorities have to be involved in the matter. Only if a temple property is to be alienated, Commissioner's permission has to be taken. This is a case of protecting the temple property.

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36.The learned Judge vide order dated 21.11.1996 in WP No. 18884 of 1994 had indicated that the temple management will bear in mind the nearness of the Dargha and choose a place at least 15 meters away from the Dargha, the flight of steps and the Nellithope area and places declared to belong to the Dargha under the decree in O.S No.4 of 1920. Deepathoon is located 50 meters away from the Dargha. It does not fall within the prohibited distance from the flight of steps or the Nellithope area. As already mentioned, apart from these three, no other place belongs to the Muslims.

37.The Hon'ble Supreme Court in ***P.R.Murlidharan v. Swamy Dharmanandha Theertha Padar (2006) 4 SCC 501*** held that police protection may be given having regard to the decree passed by a civil court. In the case on hand, there is a decree of declaration and injunction in favour of the temple management against the Dargha. The devasthanam is entitled to go to the Deepathoon by climbing some steps from Nellithope area. This is because of the decree of injunction granted to them. The flight of steps belongs to the Dargha. But some of the steps can be used before branching out by climbing the rocks for reaching the Deepathoon.

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38.It is true that Rama.Ravikumar in his representation did not speak with clarity. The learned counsel for the contesting respondents tried to make much out of it. But Rama.Ravikumar is not the only petitioner before this Court. He has been joined by few other persons including an impleaded petitioner. There is no point in quibbling. The bull has to be taken by its horns. The question has to be formulated directly and precisely. It is whether the devasthanam is obliged to light Karthigai Deepam at Deepathoon also apart from the site near Uchi Pillaiyar Mandapam. I had held that the devasthanam is under a legal duty to do so in order to protect its property as declared in O.S No.4 of 1920 on the file of the First Additional Sub Court, Madura. By doing so, the devasthanam would also be honouring the Tamil tradition of lighting atop the hill. Devasthanam has the duty to maintain traditions. If traditions have been abandoned, the temple management has to restore them so long as constitutional morality is not breached. Lighting a lamp is a sacred act. It cannot offend anybody's sensibilities. I also fail to understand as to how the provisions of the Places of Worship Act are attracted to this case. By lighting the lamp at Deepathoon which is meant for that purpose, the structure of the

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Dargha is not in any way affected. The Dargha is located at a safe distance of not less than 50 meters.

39.When the learned Judge disposed of WP No.18884 of 1994, he did not leave everything to the arbitrary discretion of the temple management. When the temple management is called upon to take a decision, its discretion has to be exercised in a proper manner. The decision was taken in this case by the executive officer. Admittedly, the temple has a Trust Board. The trust board does not seem to have taken a decision though they have sailed along. A question of vital import such as the one on hand could not have been decided by the Executive Officer. The impugned decision is quashed as lacking in jurisdiction. Since the trust board has not taken any independent stand, no purpose will be served by remanding the matter.

40.In passing, I may refer to a resolution that was passed in the peace committee meeting held on 01.12.2005 in the office of the RDO. The Dargha management had signed the minutes expressing their no objection for lighting the lamp at Deepathoon. They made it clear that

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the lamp can be lit at any place beyond 15 meters from the Dargha. Though this is not an enforceable resolution, one can safely conclude that the opposition appears to be more at the instance of certain vested interests. In fact, in the order dated 21.11.1996 itself, there is a reference to a similar agreement arrived at on 04.11.1994. But then, it was claimed that it was done at the behest of the authorities.

41.The balance of convenience can also be noted. By lighting the lamp at Deepathoon, the rights of the Dargha or the Muslims will not in any way be affected. The Dargah management has not demonstrated as to how they will be affected if the lamp is lit at the Deepathoon. It is not their case that Deepathoon is within the Dargha campus. On the other hand, if the lamp is not lit at Deepathoon, there is always a possibility that the rights of the temple may be jeopardised.

42.For the reasons mentioned above, I direct the temple management/devasthanam to light the Karthigai Deepam at Deepathoon also apart from the usual places. Karthigai is also a festival of light. Lamps are lit all over the house and not in the pooja room

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alone. The Karthigai Deepam shall be lit from this year onwards at Deepathoon also. It is the duty of the jurisdictional police to ensure that the direction of this Court is complied with. The Commissioner of Police, Madurai City shall see to it that no one comes in the way of enforcement of this order.

43.W.P(MD)Nos.32317, 33112, 33197, 33724 are allowed. WP(MD)No.34051 of 2025 stands dismissed. I would be failing in my duty if I fail to appreciate Ms.J.Anandavalli, the learned counsel appearing for one of the impleaded parties, for filing a consolidated typed set which contain all the relevant materials.

No costs. Connected miscellaneous petitions are closed.

01.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Note : Issue order copy on 01.12.2025

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To

1.The District Collector, Madurai.

2.The Commissioner of Police, Madurai City.

3.The Joint Commissioner, HR&CE Department, Madurai.

4.The Executive Officer, Arulmigu Subramania Swamy Temple,
Thirupparankundram, Madurai.

5.The Superintending Archeologist,
Archeological Survey of India,
Trichy Sub-Circle, Trichy – 620 002.

6.The Commissioner, Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

7.The Tamil Nadu Waqf Board, rep.by its Chief Executive Officer,
No.1, Jaffar Syrang Street, Vallal Seethakathi Nagar,
Chennai – 1.

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G.R.SWAMINATHAN, J.

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W.P(MD)Nos.32317, 33112,
33197, 33724, 34051 of 2025
and
WMP(MD) Nos.25422 & 26867 of 2025

01.12.2025

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