

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR JUSTICE B.PUGALENDHI

WP(MD) No. 18560 of 2026

Sivanupandian

..Petitioner(s)

Vs

1. The District Collector,
Tirunelveli District.
2. The Assistant Executive Engineer (WRO)
Upper Thamiraparani Sub-Division,
Cheranmahadevi, Tirunelveli District.
3. The Commissioner,
Hindu Religious and Charitable Endowment
Department, No.119, Uthamar Gandhi Salai,
Nungambakkam High Road,
Chennai - 600 034.
4. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department, Kokkirakulam, Palayamkottai,
Tirunelveli - 627 002
5. The Executive Officer,
Arulmighu Papanasa Swamy Thirukoil,
Papanasam, Ambasamudram Taluk, Tirunelveli
District.

(R3 to R5 suo motu impleaded vide court order
dated 02.07.2026 in WP(MD)No.18560 of
2026)

.Respondent(s)



Prayer : (Waterbody) Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the notice dated 23.06.2026 in Ref.No. Ko.27/2026-1/ issued by the 2nd respondent and quash the same and consequently directing the respondent not to interfere with the peaceful possession and enjoyment of the petitioner over Anandha Vilas Mandapam in 0.08.16 Hectares within total extent of 19.55.00 Hectare in Survey No. 876/1A, Vickramasingapuram Part - II Village, Ambasamudram Taluk, Tirunelveli District and pass such further or other orders as this Honble court may deem fit and proper in the circumstances of this case and thus render justice.

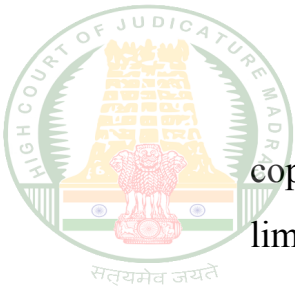
For Petitioner(s): Mr.Ramasamy S

For Respondent(s): Mr.M.Kannan Govt Advocate Takes Notice For Respondents
M/s. V.R.Shanmuganathan-838/1997
N. Sharmiya For R3

ORDER

Eviction order under Section 6 of the Land Encroachment Act, 1905 was issued on 24.01.2024 calling upon the writ petitioner to vacate the petition mentioned Mandapam. Questioning the same, the petitioner herein filed WP(MD)No.3059 of 2024. The writ petition was disposed of by us on 30.09.2024 in the following terms :

“The order impugned in the writ petition is appealable. If the petitioner files such an appeal within two weeks from the date of receipt of a



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copy of this order, it shall be entertained without reference to limitation. The appeal itself will be disposed of on merits and in accordance with law within a period of four months, thereafter.”

It is stated that availing the liberty given by us, the petitioner filed an appeal before the District Collector, Tirunelveli. Even though we had directed the appellate authority to dispose of the appeal within four months, we regret to note that till date the appeal has not been disposed of. Since the petitioner has not obtained any interim order, reminder was sent by the second respondent on 23.06.2026. Challenging the same, this writ petition has been filed.

2. In fact, this writ petition may not be maintainable because the impugned proceedings are rather consequential in nature. Be that as it may, when the matter was taken up for hearing, it was submitted by the second respondent that thousands of devotees flock to the bathing ghats of Tamirabarani river from Papanasam onwards to perform obsequies. The ceremony invariably involves ritualistic discarding of used and unused garments, towels, clothes, slippers and articles associated with the deceased. On occasions such as Aadi Amavasasai, pilgrims arrive in huge numbers for offering homage to their deceased forefathers.

3. We were also informed that an activist by name Shri Moorthy is taking considerable interest in cleaning the river by removing such discarded clothes



and articles. We wanted to have a personal interaction with him. Pursuant to the request made by us through the department, he appeared in person before us today. He outlined the measures being undertaken by him. We were truly impressed and deeply moved. We place our heartfelt appreciation for the wonderful and salutary work he has been doing so far. Thiru Moorthy informed us that when efforts were taken by the temple authorities to deploy two officials to ward off attempts to discard used clothes near one specific point which witnessed a huge footfall, people shifted their locus and started performing rituals elsewhere on the river bank. He stated that the people are performing rituals at any point on the river bank from Gnanapalayam to Thalayanai. It is stated that every day not less than a tonne of used garments and clothes are dumped in the river Tamirabarani. Thiru Moorthy has been coordinating with the local administration as well as the temple management, and by enlisting the services of the members of a community known as “Aripukarargal”, he has been able to collect the items thrown into the river.

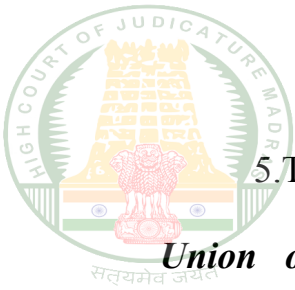
4.No one has the right to pollute a water body even in the name of religion. This can be taken as an axiomatic proposition. If statutory backing has to be shown, one can straightaway cite Section 36 of the Tamil Nadu Public Health Act, 1939 which prohibits pollution of water courses. More important is Section 24 of The Water (Prevention And Control Of Pollution) Act, 1974 which reads as follows:



“24. Prohibition on use of stream or well for disposal of polluting matter, etc.— Subject to the provisions of this section,-

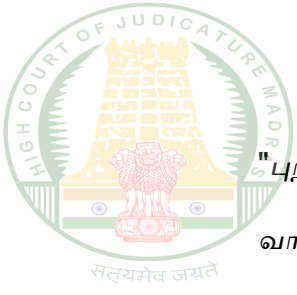
(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.”

Thiru Moorthy pointed out that while clothes made out of pure cotton are biodegradable, that is not the case with fabrics made out of polyester etc., When these discarded clothes get caught in the riverbed, it becomes a breeding ground for bacteria like e coli bacteria thereby posing a serious health hazard. It is also brought to our attention that Tamirabarani is home to two particular kinds of turtle known as Indian Black Turtle and Indian Flapshell Turtle. Their average life span is not less than hundred years. But, they get enmeshed in the clothes and suffocate to death. He lamented that even photo frames are thrown into the river. The glass breaks against the rocks and poses a serious threat to marine life. The sifters who gather the articles suffer injuries. Dumping such items also undoubtedly constitutes a polluting activity.



5. The Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India*, (2012) 3 SCC 277 advocated for a shift from the anthropocentric approach to an eco-centric approach. Right to enjoy pollution free water is a fundamental right under Article 21 of the Constitution (*Subas Kumar v. State of Bihar*, (1991) 1 SCC 598). In *M.C Mehta vs Union of India* (2024 SCC OnLine SC 3366), the Hon'ble Supreme Court reminded that no religion encourages any activity which creates pollution.

6. We therefore propose to direct the authorities to ensure that there is no further pollution of the river Tamirabarani in the guise of performing rituals for the departed. We are however conscious that the issue concerns the beliefs and sentiments of millions of Hindus. An order passed in a public interest litigation operates in rem and therefore, it is imperative that without hearing the stakeholders, orders prejudicial to their interest should not be passed. Therefore, it would not be appropriate to pass any order without hearing them even though we only propose to enforce a statutory mandate. Believers can do what is spiritually beneficial to them provided it has no adverse implication for ecology and does not violate the rights of the other members of the society. Article 25 of the Constitution makes the freedom to practise religion subservient to public health. Tamirabarani has been a perennial river catering to the drinking water needs of crores of people. It cannot be allowed to be polluted. There is a famous couplet in Thirukural:



"புறந்தூய்மை

நீரான்

அமையும்

அகந்தூய்மை

வாய்மையாற் காணப் படும்."

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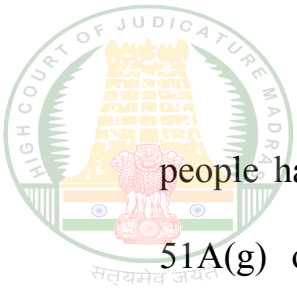
By water outward forms are clean'd; by truth alone

The inward man is thoroughly purify'd and known." - Trn G.U. Pope. If water which is required for cleaning itself becomes unclean, one can only lamentingly cite the biblical saying "You are the salt of the earth ; but if the salt have lost his savour, wherewith shall it be salted?"

7.We had a look at a small booklet titled "Thamarabharani Nadhaneer Thooimai Vizhipunarvu" authored by Smt. C. Kalavalli. Details of the waste discarded in the Thamarabharani river and collected during the period from 07.05.2026- 28.05.2026 is as follows :

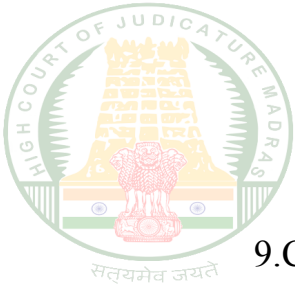
- 1.Clothes - 86-90 tonnes
2. Holy ash- 2.20 tonne
3. Slippers – 115 Kgs
- 4.Plastic waste – 1385 kgs
- 5.Glass bottles – 220 kgs
6. Sacks – 90 kgs
7. Burnt bricks – 700 kgs
- 8.Oil bottles, shampo cover etc., - 302 kgs
- 9.Sanitary napkin/diaper – 374 kgs
10. Residuary waste – 440 kgs

The statistics are alarming. The administration has to necessarily educate the masses on a war footing. A carrot and stick policy may have to be followed. The



people have to be reminded that they have a fundamental duty under Article 51A(g) of the Constitution of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures and Article 51A(h) to develop the scientific temper. But we would not straightaway condemn the practices of the people as one of superstition. If it had been harmless, we would have spared it completely. Because it is destroying the river, we feel compelled to intervene. Thiru Moorthy informs us that a fairly large tank is being constructed near the river bank. It could be used for performing the rituals. Every day, the cleaning work can be undertaken. The people have to be weaned away from the pernicious practice of throwing the articles into the river for the sake of propitiating the souls of the dead.

8. We direct the District Collector, Tirunelveli to make an announcement to the public at large about the orders that are proposed to be passed on 16.07.2026. Any religious body or activist can intervene and make their submissions. We expect the District Administration to place before us a set of proposals that would provide a final solution for this problem that appears to be of recent origin.



9.Call this case on 16.07.2026.

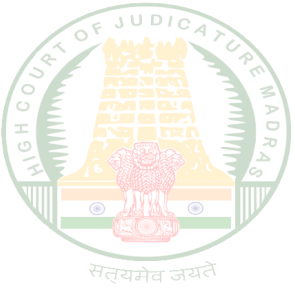
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(G.R.S.,J.) (B.P.,J.)
09-07-2026

SKM

To

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**G.R.SWAMINATHAN, J.
AND
B.PUGALENDHI, J.**

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