



W.P. No.200 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 13.08.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.200 of 2022
and
W.M.P. No.231 of 2022

PiyushSethia

... Petitioner

Versus

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. Tahsildar,
Nallampalli,
Nallampalli Taluk,
Dharmapuri District.

3. Deputy Superintendent of Police,
Pennagaram,
Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, call for the records and quash the Notice dated 16.07.2021, ref. Roc. No.1984/2021/A1, issued by the Tahsildar, Nallampalli Taluka, Dharmapuri District and consequently permit the Petitioner to erect the stone pillar containing the picture of Fr. Stan Swamy in his private patta land in Survey No.382/4 and 391 of Nekkundi Village, Nallampalli Taluk, Dharmapuri District.



W.P. No.200 of 2022

For Petitioner
For Respondents

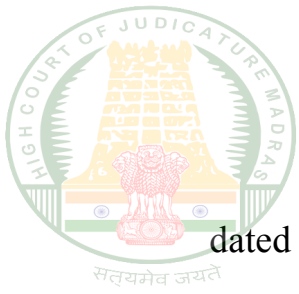
: Dr. V. Suresh
: Mr.U. Baranidharan
Addl. Govt. Pleader for R1 & R2
Mr.L. Baskaran
Govt. Advocate (Crl. Side) for R3

WEB COPY

ORDER

This writ petition has been filed seeking for quashment of the Notice in ref. Roc. No.1984/2021/A1, dated 16.07.2021, issued by the Tahsildar, Nallampalli Taluk, Dharmapuri District and consequently permit the Petitioner to erect the stone pillar containing the picture of Fr. Stan Swamy in his private patta land in Survey No.382/4 and 391 of Nekkundi Village, Nallampalli Taluk, Dharmapuri District.

2. It is stated that the petitioner used to manage farm lands, which are known as “coop forest”, where farming and watershed development activities are done by him. Further it is stated that through the coop forest, he is teaching interested persons about sustainable farming and life style practices. It is also stated that his Mentor is Late Father Stan Swamy, who was well known for the efforts taken to protect the welfare of Adivasi communities. Therefore to commemorate the life of Father Stan Swamy, the petitioner is interested to erect the stone pillar containing the picture of Fr. Stan Swamy in his private land and planned to unveil the said stone pillar. While so, suddenly, the respondents issued the impugned notice



W.P. No.200 of 2022

dated 16.07.2021, thereby the said task of the petitioner was rejected by

the respondents, for the reasons best known to them and as such, he was

unable to unveil the statute. Aggrieved by the said impugned notice, dated 16.07.2021, this writ petition has been filed with the aforesaid prayer.

3. Learned counsel for the petitioner submitted that the petitioner intended to erect the stone pillar with the picture of Fr. Stan Swamy in his private land, the Coop Forest, which is located in a distant village in Dharmapuri District. He pointed out that the respondents themselves have admitted in the impugned notice that the said stone pillar is yet to be erected in the private land of the petitioner. Further, he submitted that in the absence of any statutory provisions with regard to erection of statute in a private land, issuance of the impugned notice by the 2nd respondent is unsustainable and illegal.

4. He brought to the notice of this Court that the issue raised in this writ petition is no longer *res integra* as the matter relating to erection of statute in a private land, has been settled by various decisions of this Court. They are mentioned hereunder for kind perusal :

a) A decision of the Hon'ble Division Bench of this Court in the case of ***The District Collector and four others vs. N.E. Rajasudhan,***



W.P. No.200 of 2022

issued on 25.04.2016 in W.A. (MD) No.547 of 2016 ;

WEB COPY b) A decision of the Hon'ble Division Bench of this Court in the case of *Vijayan vs. The District Collector and two another* issued on 14.06.2017 in W.A. (MD) Nos.1079 & 1402 of 2016 :

c) A decision rendered by Single Judge of this Court in the case of *R. Kanthavel vs. The Principal Secretary to Government and two others* in W.P. (MD) No.24595 of 2023, dated 04.01.2024.

5. In view of the aforesaid submissions as well as following the aforesaid decisions, he prays for quashing of the impugned notice, dated 16.07.2021 passed by the 2nd respondent. Also, he prays for issuance of consequential permission as sought for and allowing of this writ petition.

6. Denying the submissions made by the learned counsel for the petitioner, Mr.U. Baranidharan, learned Additional Government Pleader appearing for respondents 1 and 2 submitted his arguments based on the counter affidavit filed by respondents 1 and 2. More particularly, he submitted without obtaining proper permission from the authorities concerned, the petitioner is trying to unveil the stone pillar of Fr. Stan Swamy, which is contrary to rules prescribed in G.O. Ms. No.183, Revenue Department – land Disposal Wing, dated 23.05.2017. Further, he vehemently argued that the Stone Tablet relates to a person, who had been



W.P. No.200 of 2022

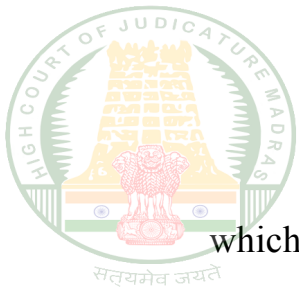
WEB COPY

related to the Naxals and Maoists and it would hamper the law and order of the area, if such erection is permitted. Hence, he seriously objected for the said erection and prays for dismissal of this writ petition.

7. Reiterating the counter affidavit filed by the 3rd respondent, Mr.L.Baskaran, learned Government Advocate (Criminal Side) submitted recently the Tribal hamlets have turned into a paradise for the convergence and breeding of anti-social elements with ideology opposing the Government and its functions. He further submitted that the place, where the statue is going to be unveiled is sensitive and it would lead to communal clashes if such erection is permitted. Considering all, he prays for dismissal of this writ petition.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. From the averments it reveals that the petitioner was impressed by the work rendered by Fr. Stan Swamy for the welfare of Tribals. Therefore, the petitioner has decided to erect the Stone Pillar of Fr. Stan Swamy in his private patta land for remembrance of Fr. Stan Swamy. While the aforesaid task is under process, suddenly, the 2nd respondent issued the notice, dated 16.07.2021, which is impugned herein and due to



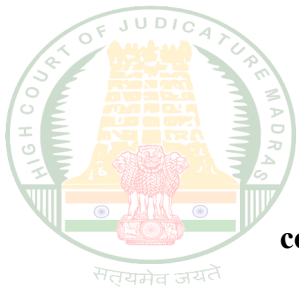
W.P. No.200 of 2022

WEB COPY

which, the unveiling of statue of Fr. Stan Swamy at the private land of the petitioner was stopped. When an allegation put forth against a person is not proved, then the said allegation is nullity. In the instant case, Fr. Stan Swamy taken more efforts for the welfare of Tribals and the issue on hand is erection of his statute / Stone pillar in the petitioner's private land. As a general principle, the law grants the citizens the right to install statues in their own private property. The only restriction is that such an erection of the statue should not bring any conflicts between two communities or in a way that would hurt the feelings of a particular society. There is no legal impediment if erection of statue at a private patta land is permitted. Also, it is opined by the petitioner that the expenditure in respect of the said erection would be borne by him and therefore, permission from authorities in the aforesaid aspect is not required.

10. Further, the issue raised in this writ petition is no longer *res integra*, by many decisions of this Court, recently in an identical issue, a learned Single Judge of this Court in the case of R. Kanthavel vs. The Principal Secretary to Government *in W.P. (MD) No.24595 of 2023, dated 04.01.2024* has held as under :-

4.I carefully considered the rival contentions and went through the materials on record. Since notwithstanding the direction issued by this Court, the authorities have not passed an order, I am inclined to



W.P. No.200 of 2022

WEB COPY

consider the issue on merits. What does the petitioner want? He wants to install the statue of a highly revered freedom fighter and leader in a community hall built on a patta land. Does he require prior permission from the government or any other statutory authority?. The issue is no longer res integra. The answer is that to erect a statue such as the one on hand on a patta land, permission from the authorities is not required. This is because there is no statute governing the subject matter. A patta holder has certain rights over his land. Just as one's home is his castle, one's land is his fiefdom. The State can step in only by due process of law. A statutory or common law right cannot be restricted or taken away through a executive instructions or government orders. Only a statute that is not ultra vires the Constitution can impinge on such rights. For instance, if one wants to put up a religious structure for public worship, then, prior permission from the District Collector would be required. Since there is no such statutory provision or Rule regarding installation of statues, the right of an individual to erect a statue in honour of a person whom he reveres cannot be stifled or interfered with.

5.It is true that G.Os were issued from time to time framing guidelines in this regard. They have been considered in many a case. Let me refer to some of them. A learned Judge of this Court vide order dated 14.08.2023 in W.P.No.23485 of 2023 (Tamil Nadu Yadava Mahasabai Kancheepuram District Rep by its District Secretary Vs. District Collector) held as follows



WEB COPY



W.P. No.200 of 2022

“7.Right to property is a Constitutional right, and it cannot be interfered with except as per a fair procedure established by law. No legislature or the executive can arrogate to themselves any power to interfere with the private life of a citizen. A citizen has every right to use his property subject only to any objectual regulation. Directing a citizen not to erect a statue as a mark of respect for a freedom fighter in his property involves both a right to faith and right to privacy, both of which are fundamental rights now recognised under the Constitution.

8.The authority of the State therefore, commences where the boundaries of the private property ends. To state it differently, no State has any right to interfere with the private life of a citizen and his right to erect any statue within the private premises. It is plainly not the business of the State and its instrumentalities. The State does not have the authority to peep into the private affairs of the citizens through which they give expression to the exercise of their fundamental and constitutional rights.

9.1 This Court has least hesitation in holding that the respondents have exceeded their authority in entering a private property without authority and covering the statue in question when the regulation regarding erection of statue is limited to only public places. The respondents have terribly



WEB COPY



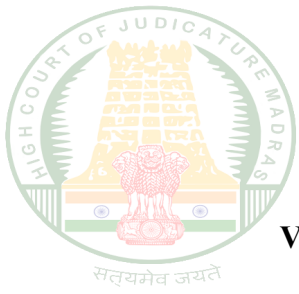
W.P. No.200 of 2022

misunderstood the G.O.(Ms) No.183. Indeed, this Court even doubts if ever the legislature or the executive can ever make a law or an executive order for restraining the citizen from erecting statues when they are done consistent with his right to faith within his private property.”

6.Vide order dated 29.08.2012 in W.P.(MD)No.8935 of 2012 (Srivilliputhoor Saiva Vellalar Sangam Vs.District Collector), a learned Judge of this Court held as follows:-

“4..... the learned counsel for the petitioner placed reliance upon the judgment of this Court in P.Maniyarasan .vs. The Government of Tamil Nadu reported in 2011(1) CWC 379, this Court after reviewing the orders of the Government as well as the judgement passed by this Court in T.Amirthalintam .vs. State, represented by its Secretary, Department of Home, Chennai and others reported in 2010 (2) MLJ 1022 has observed that there is no authority for the Government to prevent the persons installing statue in a private land which according to the persons who believe in the greatness of their individuals. Further as to the nature of statue to be installed, this Court is of the view that there is no impediment for a person to install a statue depending upon their wishes whether the statue should be made of clay or wood or stone or metal as the case may be, the State cannot interfere with the same. At this juncture, the learned counsel for the petitioner also produced a copy of the D.O Letter of the Principal Secretary to Government, Government

of Tamil Nadu, Chennai addressed to the District Collector,



W.P. No.200 of 2022

WEB COPY

Virudhunagar District, dated 12.08.2008. In that case, relating to installation of the statue of Pasumpon Muthuramalinga Thevar at Rajapalayam. In that case, the State Government had stated that for unveiling statue, there is no requirement of the State Government's permission and if any statues are installed, appropriate steps should be taken to protect the same from being damaged by anti-social elements. There should not be any room for law and order problem. From this, it is made clear that for installation of the statue of V.O.Chidambaram Pillai, who has rendered his life for the independence of this country and in the absence of any legal impediment, there is no question of preventing the petitioner Sangam from unveiling the statue on their own association compound.” 7.It is also relevant refer to the order dated 10.01.2017 in W.P.No. 43657 of 2016 (V.R.Vengan Vs. State represented by Secretary Department of Home Secretariat, Fort St. George Chennai). The petitioner wanted to install the full size bronze statue of Shri.E.V.Ramasamy in his private land. It was held that it is not open to the Government to prevent an individual from installing the statue of a person esteemed by him in his private land. Vide order dated 13.07.2015 in W.P.No.9249 of 2015 (Ramadurai Vs. District Collector), a learned Judge of this Court held that in regard to installation of statues, there is no ban for installing the statues in the private patta lands. Of course, in some of the orders, there has been direction to the authorities after clarifying the law to consider and pass orders. In my view, when once it

has been concluded that there is no ban and permission from the

<https://www.mhc.tn.gov.in/judges>



W.P. No.200 of 2022

WEB COPY

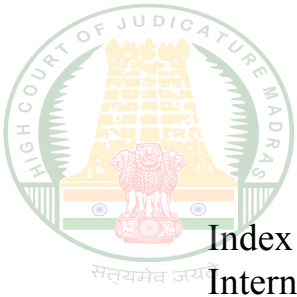
authorities is not required, there is no need to once again call upon the petitioner to go before the authority and obtain permission. That would be a contradiction in terms. That is why, instead of granting relief as prayed for, I declare that the petitioner is at liberty to unveil the statue of Thiru.Pasumpon Muthuramalinga Thevar within the premises of the petitioner's community hall.

8.The Writ Petition is allowed on these terms. No costs.

11. In view of the reasonings stated supra, the impugned notice, dated 16.07.2021 passed by the 2nd respondent is not proper and therefore, this Court is inclined to set aside the same. Accordingly, the impugned notice, dated 16.07.2021 passed by the 2nd respondent is set aside and consequently granting liberty to the petitioner to erect the stone pillar of Fr. Stan Swamy in his private patta land in Survey No.382/4 and 391 of Nekkundi Village, Nallampallai Taluk, Dharmapuri District. It is made clear that while erecting the said stone pillar at the aforesaid petitioner's property shall not cause any hindrance to public at large.

12. In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

13.08.2024



W.P. No.200 of 2022

Index : Yes / No

Internet: Yes/No

Speaking Order/Non-Speaking Order

vsi2

M.DHANDAPANI, J.

vsi2

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Tahsildar,
Nallampalli,
Nallampalli Taluk,
Dharmapuri District.

3. The Deputy Superintendent of Police,
Pennagaram,
Dharmapuri District.

W.P. No.200 of 2022

13.08.2024