



W.P(MD)No.10544 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.10544 of 2014 and
MP(MD) No.1 of 2014

S.Pasumpon
S/o Seetharaman
Trustee,
Sreeman Narayana Swami Temple,
Vellipparai Parkadal Muttappathi,
Chinnamuttam,
Kanyakumari District.

...Petitioner

Vs

1.The Executive Engineer,
Water Resources Organization,
Public Works Department,
Anti Sea Erosion Division,
Nagercoil,
Kanyakumari District.

2.The District Collector,
Kanyakumari District,
Kanyakumari.

...Respondents

(R2 is impleaded vide Court order, dated 09.01.2018 in MP(MD)
No.2 of 2014)



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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, calling for the records relating to the proceedings issued by the respondent in his letter No.2/DB/D2/74 M/2013/C 103, dated 05.07.2013 and to quash the same as illegal and consequently to direct the respondent to construct the Sea Erosion Wall along the Sriman Narayanasamy Temple situated at Vellipparai Parkadal Muttappathi, Chinnamuttam, Kanyakumari.

For Petitioner : Mr.K.C.Ramalingam
For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petitioner claiming to be the Trustee of Sreeman Narayana Swami Temple, Velliparai Parkadal Muttapathi, Chinnamuttam, Kanyakumari District earlier filed a writ petition before this Court in WP(MD)No.4483 of 2013 for a writ of mandamus directing the Executive Engineer, PWD, Anti Sea Erosion Division, Nagercoil, Kanyakumari District, to construct seawall around the temple. He also claims that the said temple is in existence for a long time and due to Tsunami hit in the year 2004, the compound wall of the temple was destroyed. Thereafter no steps



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were taken by the authorities to construct the seawall. This Court considering the case of the petitioner, by order dated 15.04.2013 disposed of the above writ petition directing the Executive Engineer, WRO, PWD, Nagercoil to consider the petitioner's representation dated 05.02.2013 on merits and in accordance with law. Pursuant to the same, the Executive Engineer, PWD, WRO, Nagercoil, has sent a communication in letter No.2/DB/D2/74 M/2013/C 103, dated 05.07.2013 to the Registry of this Bench that there is no provision for them for putting up any such seawall along a private temple. The said reply/report is challenged in this writ petition.

2. According to the petitioner, the temple in question has been in existence for several decades and a large number of devotees are visiting the temple everyday. The petitioner has also produced certain photographs showing the present status of the temple, which is located near the shore. Hence, the learned counsel prays this Court to issue a suitable direction to the respondent for construction of Sea Erosion Wall around the temple.



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3.Considering the above submission made on behalf of the petitioner, this Court by order dated 15.03.2023 directed the learned Government Advocate to get instructions from the District Collector concerned.

4.In pursuance to the directions of this Court, the learned Government Advocate produced a communication, which he has received from the District Collector, Kanyakumari in Letter No.ROC/H/E-748810/2023, dated 21.03.2023, which states that the temple in question was constructed about 100 years ago in an unsurveyed land/seashore poramboke and is situated within 500 Metres from sea. The temple was not affected during Tsunami hit. Since it is a private temple, there is no feasibility and necessity for them to construct a seawall along the temple. However, the District Collector submits that if the Court directs to take over the administration of the temple, the District Administration is ready to take over the administration of the said temple, as per Circular of the HR&CE Department in Na.Ka.12565/2022/E1, dated 15.03.2022.



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5.Considering the stand taken by the District Collector, Kanyakumari, the petitioner was directed to file an affidavit as to whether the petitioner is willing to hand over the administration of the temple to the District Administration / the HR & CE Department.

6.Today(06.06.2023), when this writ petition is taken up for hearing, the learned counsel appearing for the petitioner has made it clear that the petitioner is not willing to hand over the temple administration either with the District Administration or with the HR & CE Department.

7.The submission made on behalf of the petitioner is recorded. Since the subject temple is a private temple, it is the responsibility of the petitioner Trustee to make arrangements for the safety of the devotees, who are visiting the temple on their own. Therefore, this Court is not inclined to issue any direction to the Government to establish Sea Erosion Wall at the Government's cost.



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8. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

06.06.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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To

1. The Executive Engineer,
Water Resources Organization,
Public Works Department,
Anti Sea Erosion Division,
Nagercoil,
Kanyakumari District.

2. The District Collector,
Kanyakumari District,
Kanyakumari.



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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.10544 of 2014

06.06.2023