

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 19813 of 2015 (B)

PETITIONER(S):

**V.T. CHANDRAN,
PURAKKATTERY, THALAKKULATHUR,
KOZHIKODE DISTRICT, PIN - 673 317.**

**BY ADVS.SRI.C.R.SIVAKUMAR,
SRI.ELDHO MATHEW,
SMT.P.SREELAKSHMI.**

RESPONDENTS:-:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE PRINCIPLE SECRETARY TO HOME,
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 3. THE DIRECT GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 4. THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682 030.**
- 5. THE DISTRICT POLICE CHIEF,
OFFICE OF THE DISTRICT POLICE CHIEF,
MARINE DRIVE WALKWAY, MARINE DRIVE,
ERNAKULAM, PIN - 682 011.**
- 6. THE CIRCLE INSPECTOR OF POLICE,
ERNAKULAM NORTH POLICE STATION,
ERNAKULAM, PIN - 682 018.**

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**7. THE STATION HOUSE OFFICER,
ERNAKULAM NORTH POLICE STATION,
ERNAKULAM, PIN - 682 018.**

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. THE DECISION WHICH WAS REPORTED BY THE NEWS PAPER DATED 22.01.2015 MATHRUBHOOMI DAILY.
- EXHIBIT P2. THE TRUE COPY OF THE NEWS ITEM PUBLISHED IN HINDU DAILY DATED 25.01.2015.
- EXHIBIT P3. THE TRUE COPY OF THE NEWS ITEM PUBLISHED IN MALAYALA MANORAMA DAILY DATED 25.01.2015.
- EXHIBIT P4. THE TRUE COPY OF THE JUDGMENT IN O.S.NO.495/2010 DATED 01.01.2015.
- EXHIBIT P5. THE TRUE COPY OF THE APPOINTMENT LETTER DATED 25.02.2015 OF GANDHI PEACE FOUNDATION.
- EXHIBIT P6. THE TRUE COPY OF THE COMPLAINT DATED 09.02.2015.
- EXHIBIT P7. THE TRUE COPY OF THE COMMUNICATION DATED 26.03.2015.
- EXHIBIT P8. THE TRUE COPY OF THE COMMUNICATION DATED 25.03.2015.
- EXHIBIT P9. THE TRUE COPY OF THE COMPLAINT DATED 30.01.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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W.P.(C) No.19813 of 2015

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Dated this the 6th day of August, 2015

JUDGMENT

The prayers in this Writ Petition (civil) filed under Article 226 of the Constitution of India are as follows:

- i. To issue a writ of mandamus any other appropriate writ, order or direction directing the 6th respondent to conduct investigation based on the Exhibit –P6 & P9 complaints preferred by the petitioner and directed to complete the investigation within a short span of time as fixed by this Hon'ble Court.
- ii. To issue a writ of mandamus or any other appropriate writ order or direction directing the 3rd respondent to monitor the investigation of 6th respondent to file monthly report before this Hon'ble Court till the disposal of writ petition.
- iii. To issue a writ of mandamus or any other appropriate writ order of direction directing the 1st respondent to take appropriate action against the responsible government officials ordering to remove Gandhian statue at Kacherippady in the land owned by Gandhian Peace Foundation.
- iv. To issue appropriate order or direction as this Hon'ble court may deem fit and necessary in the facts and circumstances of the case."

2. In compliance with this Court's order the statement dated 29/07/2015 has been filed on behalf of the official respondents

concerned through the Sub Inspector of Police, Ernakulam Central Police Station. It will be profitable to refer the contents of the statement which reads as follows:

"1. The above writ petition is filed for the issuance of a writ of mandamus directing the 6th respondent to conduct investigation based on the Ext.P6 complaint preferred by the petitioner and to complete the investigation within a time frame to be fixed by this Hon'ble Court and to further direct the 3rd respondent to monitor the investigation to be conducted by the 6th respondent and to file monthly report and also to direct the first respondent to take proper action against the Government officials responsible for ordering to remove the statue of Mahatma Gandhi, from the premises of Gandhi Bhavan at Kacherippady, owned by the Gandhian Peace Foundation etc.

2. It is respectfully submitted that as stated above the statue of Mahatma Gandhi was situated at Gandhi Bhavan owned by Gandhian Peace Foundation. The District Revenue Authorities unauthorisedly tried to shift the statue from the existing premises and to relocate the same in the compound of the Collectorate with dubious reasons is the allegation raised by the petitioner herein. The petitioner has been preferred Ext.P9 petition alleging that there was a move to shift the statue of Mahatma Gandhi installed at the premises of Gandhi Bhavan, Kacherippady owned by Gandhian Peace Foundation unauthorisedly and to relocate the same at the Collectorate compound. The said petition was entered into the petition register as IAPS.No.518714/15 dated 31.03.2015 and a detailed enquiry has been conducted. On enquiry it was revealed that Mr.Pavizham Madhavan Nair, Chairman, Gandhi Peace Foundation requested the District Collector to relocate the statue of Mahatma Gandhi to any other convenient place to prevent it from being damaged due to ongoing construction work of the Metro Rail. On the basis of the request made by the above named, it was decided to shift the same and to relocate it. Pursuant thereof the District Collector ordered the Deputy Tahasildar, Kanayannur to shift the statue from Gandhi Bhavan at Kacherippady. Pursuant thereof on 24.01.2015, while the labours were engaged in shifting the statue to the Collectorate compound at Kakkanadu under the supervision of revenue authorities, some local people rushed to the site and prevented the move. The District Collector was under the impression that since the Chairman of the Gandhian Peace Foundation himself has requested to relocate the statue won't be any serious objection for shifting the

statue. However, when the move was obstructed by certain local public, the District Collector directed the officials to keep the statue at Gandhi Bhavan, Kacherippady itself to avoid the unnecessary and unwarranted controversies.

3. It is respectfully submitted that on enquiry it is revealed that it was only a bonafide act done by the revenue authorities based on the request made by the Chairman of the Gandian Peace Foundation and there was no malafides in attempting to shift the statue of Mahtma Gandhi. The allegation that as a result of the intervention of the local public under the leadership of Justice P.K.Shamsudeen, the persons who attempted to remove the statue escaped from the seen is factually incorrect. As stated earlier when certain persons raised objection against shifting, the proposal the idea was dropped and the matter was amicably resolved. Accordingly the enquiry on Ext.P9 complaint was closed on 22.05.2015. Since no offence was disclosed no further action was taken and as stated the petition matter was closed.

4. It is most humbly submitted that the above writ petition is devoid of any merit and the petitioner is not entitled to get any of the reliefs claimed and hence the above writ petition is to be dismissed.”

3. Heard Sri.C.R.Sivakumar learned counsel appearing for the petitioner and learned State Attorney appearing on behalf of the official respondents.

4. In view of the averments in the statement dated 29/07/2015 filed on behalf of the respondents and in view of the nature of the facts and circumstances of this case, this Writ Petition is only to be closed leaving open the liberty to the petitioner to work out his remedies on the subsisting grievances if any, in accordance with law.

Sd/- ALEXANDER THOMAS, JUDGE

MJL