

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23946 of 2015

D.Sashikumar

.. Petitioner

V.

1.The District Collector,
Coimbatore District, Coimbatore.

2.The Commissioner,
Corporation of Coimbatore,
Coimbatore.

3.The Tahsildar,
Perur Taluk, Coimbatore District.

4.The Inspector of Police,
B-10, Police Station,
Selvapuram, Coimbatore.

5.Martin's Daison Residency,
Rep. by its Association President,
Mrs.Deepa Viswanathan,
190, Perur Main Road,
Selvapuram, Coimbatore - 641 026.

..Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent with the help of the 4th respondent to remove the "Vinayagar Statute" and its shed from 40' feet public road put up by the 5th respondent in front of the petitioner shop site.

For Petitioner .. Mr.J.Karthikeyan

For Respondents 1, 3 & 5 .. Mr.R.Rajeswaran
Special Government
Pleader

For 2nd Respondent .. Mr.K.Natarasan

For 5th Respondent .. Mr.S.B.Viswanathan

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2.The petitioner is aggrieved by the action of the 5th respondent in erecting a statue of a Deity in front of his property. The petitioner would state that the 5th respondent is a large residential complex and they have got vast extent of land and if they are interested in erecting statute of a Deity, they can very well do so in their property. However, they have erected the statute in front of the petitioner's property obstructing the petitioner's easy ingress and egress to his property that too on road margin. When the petitioner approached the Corporation officials, the Assistant Commissioner of Coimbatore Corporation stated that eviction of temples would come within the purview of the H.R. & C.E. Department.

3.The reply given by the Assistant Commissioner, Coimbatore Corporation dated 05.06.2015 is under total misconception of the legal position. The Hon'ble Supreme Court has issued directions to be implemented by all States in the Country to remove all Temples, Mosques, Churches and other places of religious institutions on road margins, which have been unauthorisedly erected. Therefore, a mere erection of a Deity would not mean that it falls within the jurisdiction of the H.R. & C.E. Department. Therefore, the view taken by the Assistant Commissioner of the respondent Corporation is not tenable.

4.In view of the above, there will be a direction to the 2nd respondent to take action on the petitioner's representation dated 30.04.2015, after calling for necessary report from the 3rd respondent. The above direction shall be complied with within a period of three weeks from the date of receipt of a copy of this order.

5.The Writ Petition is disposed of, with the above direction. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Coimbatore District, Coimbatore.

2.The Commissioner,
Corporation of Coimbatore,
Coimbatore.

3.The Tahsildar,
Perur Taluk, Coimbatore District.

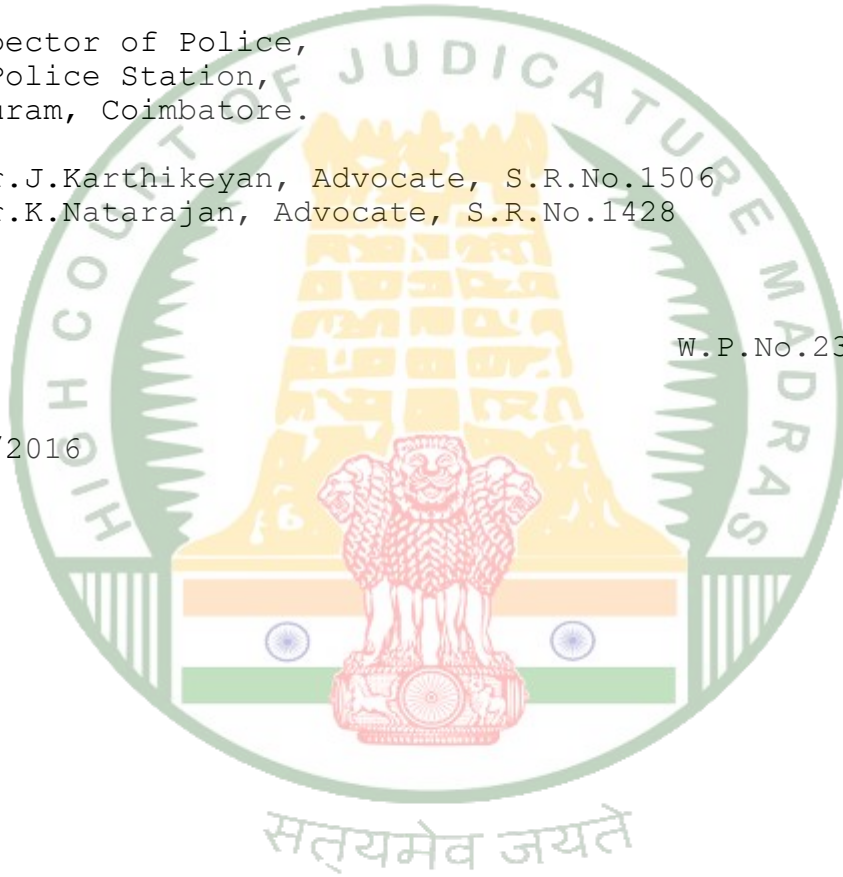
4.The Inspector of Police,
B-10, Police Station,
Selvapuram, Coimbatore.

+1cc to Mr.J.Karthikeyan, Advocate, S.R.No.1506

+1cc to Mr.K.Natarajan, Advocate, S.R.No.1428

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