

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.35480 of 2016

D.Sivakumar

.. Petitioner

Vs.

1. The State of Tamil Nadu  
through the Home Secretary  
Secretariat  
St. George Fort  
Chennai.
2. The Commissioner of Revenue Administration  
Ezhilagam, Chepauk  
Chennai - 600 005.
3. The Director General of Police  
O/o. Director General of Police  
No.1, Dr.Radhakrishnan Salai  
Mylapore, Chennai.
4. The District Collector  
O/o. District Collector  
Coimbatore District.
5. The Commissioner of Police  
O/o. Commissioner of Police  
Coimbatore City.
6. The Superintendent of Police  
O/o. Superintendent of Police  
Coimbatore District.
7. Hindu Munnani  
rep. by the state President  
Kadeswara C.Subramaniam  
No.58, Shakthi Vinayagam  
Aayamudali Street  
Chindadripet, Chennai - 600 002.

8. Hindu Munnani  
rep. by District President  
Dhasarathan  
No.288, Rangar Konar Veethi  
Katoor, Coimbatore - 641 009.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the 4<sup>th</sup> respondent to assess the damage caused by volunteers of Hindu Munnani a right wing communal outfit on the wake of procession taken out by them carrying the body of the slain activist Sasikumar at Coimbatore City on 23.9.2016 and claim damages by filing appropriate application before the second respondent in the light of Section 9 of the Tamil Nadu Property (Prevention of damage and loss) Act, 1992 read with Rules 3 and 4 of the Rules made thereunder and consequently direct respondents 1 to 6 to recover damages from respondents 7 and 8 and pay compensation to the victims whose properties are damaged by indiscriminate arson violence of the volunteers of respondents 7 and 8.

For Petitioner : Mr.Sankarasubbu  
for M/s.A.Raja Mohamed

For Respondents : Mr.M.K.Subramanian  
Government Pleader  
for respondents 1 to 6

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

In an incident where it is alleged that a member of the 7<sup>th</sup> and 8<sup>th</sup> respondents was murdered, there have been consequences in terms of destruction of public property by members of the 7<sup>th</sup> and 8<sup>th</sup> respondents.

2. The petitioner claims to be the District Vice President of Social Democratic Party of India, which is a registered political party under the Election Commission of India, and alleges to be aggrieved by the act of social evil as a result of the violence, though he is not personally affected. That the two groups are different political outfits is apparent from the description of respondents 7 and 8 - "Right-wing Communal outfits".

3. It is alleged that various shops and establishments were attacked on 23.9.2016, post the murder, and procession was taken out from the main city to the end of the burial ground, which the police force was unable to control. The petitioner claims to have made representation to the respondent authorities on 26.9.2016. The petitioner claims that permission for the procession ought not to have been granted and public life and property was not protected by respondents 5 and 6.

4. It is the case of the petitioner that an expert committee ought to have been constituted by respondents 1 to 4 immediately after the violence for assessing the public damage in terms of the judgment of the Hon'ble Supreme Court in Destruction of Public and Private Properties, In Re v. State of Andhra Pradesh and others, (2009) 5 SCC 212. In view of the observations therein, the petitioner claims that this Court should take suo motu action and set up a machinery to investigate the damage caused and award the compensation related thereto.

5. The petitioner also claims that the compensation for victims is to be recovered from the miscreants as per Section 9 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

6. We have heard the learned counsel for the parties.

7. We are of the view that the incident was a single one preceded by a murder and as per the information in the public domain, there is alleged damage to public property. The petitioner has already made a representation.

8. We are of the view that an incident of such a nature can be attended to by the State Government and sufficient time has not passed for judicial intervention at this stage, as the State Government on representation of the petitioner can investigate the matter and determine the damages, if any, as per the said Act.

9. We, thus, for the present leave the issue to the State Government in the aforesaid facts and circumstances.

This petition is, accordingly, closed. No costs. Consequently, W.M.P.No.30529 of 2016 is closed.

Sd/-

Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

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To:

1. The Home Secretary  
State of Tamil Nadu  
Secretariat  
St. George Fort  
Chennai.
2. The Commissioner of Revenue Administration  
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Chennai - 600 005.
3. The Director General of Police  
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Coimbatore City.
6. The Superintendent of Police  
O/o. Superintendent of Police  
Coimbatore District.

1 cc to Mr.A. Raja Mohamed , Advocate, Sr. 57433  
1 cc to Government Pleader, Sr. 57741

W.P.No.35480 of 2016

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सत्यमेव जयते

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