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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition (MD) No.2869 of 2013

and

W.M.P.(MD) No.1 of 2015

M.Thirunavukarasu

.. Petitioner

- Vs -

1. The District Collector,
Tiruchirappalli.

2. The Executive Officer,
Pullambadi Town Panchayat,
Pullambadi Post,
Lalgudi Taluk, Tiruchirappalli District.

3. The Executive Engineer,
NABARD Bank,
District Collector Officer,
Tiruchirappalli.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus forbearing the respondents from constructing the Public Toilet adjacent to the Statue of Thanthai Periyar at Pullambadi Village.

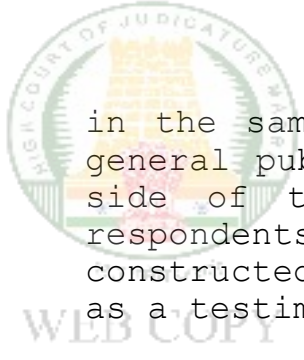
For Petitioner	: Mr.S.Muthukrishnan
For Respondents	: Mr.B.Pugalendhi, A.A.G. Asst. by Mr.Govindan, Special Government Pleader

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O R D E R

(Order of the Court was delivered by **S.Nagamuthu, J.**)

This is a Public Interest Litigation. The petitioner claims to be a member of an organisation known as Diravidar Kazhagam. The founder of the said Kazhagam was one E.V.Ramasamy, who was popularly known as "Thanthai Periyar". Thanthai Periyar was a revolutionary leader who fought for establishing a caste less society, liberation of women, widow remarriage, alleviation of inequalities among various sections off the people and for the upliftment of the people. It is stated that in the year 1997, a full size statute of Thanthai Periyar was installed in S.F.No.87 at Pullambadi town in Tiruchirappalli district, after getting necessary permission from the authorities. It was opened by the then Finance Minister, Government of Tamil Nadu, Thiru.V.R.Neduncheliyan on 24.05.1997. There was also a library in memory of Thanthai Periyar established



in the same village for the benefit of the students and also the general public. The said library was situated just on the eastern side of the statue. The library was however removed by the respondents 1 and 2 during the year 2008 on the ground that it was constructed on a water body. Thus, the statue alone has been there as a testimony to the honour extended to the late leader.

2. During January 2013, according to the petitioner, the second respondent started constructing a public toilet just by the side of Thanthai Periyar statue. The petitioner and others raised objections for the same. A written representation was also given to the respondents 1 and 2 on 05.02.2013 to stop the construction. But since the construction was not stopped and since it was felt that construction of the public toilet by the side of the statue would amount to disrespect to the late leader, the petitioner filed the present Public Interest Litigation seeking a direction to forbear the respondents from constructing the public toilet as proposed.

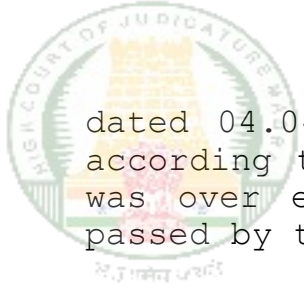
3. This Court by an interim order dated 13.08.2013, directed the respondents 1 to 3 herein to maintain status quo. The official respondents including the District Collector, Tiruchirappalli subsequently filed a miscellaneous petition in W.M.P.(MD) No.1 of 2015 on 08.10.2015 seeking to vacate the said interim order. But the interim order has not been so far vacated.

4. In the counter affidavit filed by the Executive Officer of Pullambadi Town Panchayat by name Ms.V.Bragandha, it has been stated that the administrative sanction for construction of the toilet was issued by the Director of Town Panchayat only on 22.10.2013. It is further stated that the toilet was constructed and it was inaugurated on 30.01.2014.

5. From the above statements of the Executive Officer, it is crystal clear that the construction would have been completed only during the pendency of the interim order passed by this Court on 13.08.2013 and the inauguration of the toilet held on 30.01.2014 was also during the pendency of the interim order.

6. Since it was felt that the then District Collector, Tiruchirappalli, the Executive Officer, Pullambadi Town Panchayat and the Executive Engineer, NABARD Bank have committed contempt of Court by violating the interim order of this Court, this Court initiated suo motu contempt by an order dated 07.10.2016 and ordered notice and that is how the suo motu contempt petition (MD) No.1407 of 2016 came up.

7. The contemnor Mrs.Jeyashri Muralidharan, the then District Collector, Trichy District filed a Sub Application in Sub.A(MD) No.94 of 2016 in the contempt petition seeking to dispense with her personal appearance. In the affidavit filed in support of the petition, the District Collector stated that as per the report submitted by the Assistant Director of Town Panchayat dated 25.02.2013, the construction of the toilet was commenced on 04.10.2012 based on the resolution of the Town Panchayat Council



dated 04.04.2012 and the same was completed on 07.06.2013. Thus, according to the District Collector, the construction of the toilet was over even before the interim order of status quo came to be passed by this Court.

8. On considering the said averments, this Court dispensed with the personal appearance of Mrs. Jayashree Muralidharan but the other contemnors appeared.

9. From the above stand taken by the Executive Officer, Pullambadi Town Panchayat and the District Collector, Tiruchirappalli it is seen that there is apparent conflict in respect of the date on which the construction was commenced and the date on which it was completed. The learned Additional Advocate General submitted that the details furnished by the Executive Officer, Pullambadi Town Panchayat in the counter were not correct and the details furnished by the District Collector, Tiruchirappalli are the correct particulars.

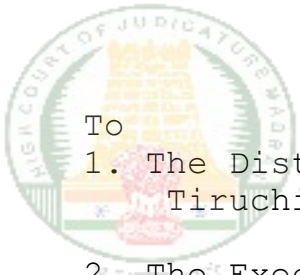
10. Having made the above submission, the learned Additional Advocate General submitted that the respondents 1 and 2 are now prepared to allot some other suitable place belonging to the panchayat where the Diravidar Kazhagam party could shift the statute of Thanthai Periyar from the present location and erect the same in the new place.

11. Mr. S. Muthukrishnan, the learned counsel appearing for the petitioner also agreed for the same.

12. In pursuance of the said submissions made now that the respondents 1 and 2 have earmarked a place and permitted the Diravidar Kazhagam party to shift the statute from the present location and to install the same in the place earmarked which has been agreed upon by the Diravidar Kazhagam, no further adjudication is needed in this litigation. In view of the same, the learned counsel for the petitioner and the learned Additional Advocate General would submit that the writ petition could be disposed of recording the above statement of both parties and accordingly the same is recorded.

13. In view of the above, the writ petition is disposed of recording the undertaking given by both parties that the statute of Thanthai Periyar shall be shifted by the Diravidar Kazhagam party from the present location and installed at the place earmarked and allotted by the respondents 1 and 2 at the cost of the said party. With the above direction, the writ petition stands disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar[CO]



To

1. The District Collector,
Tiruchirappalli.

2. The Executive Officer,
Pullambadi Town Panchayat,
Pullambadi Post,
Lalgudi Taluk, Tiruchirappalli District.

3. The Executive Engineer,
NABARD Bank,
District Collector Officer,
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and W.M.P. (MD) No.1 of 2015
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