

INTHE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos. 27870, 27873, 27866, 27876 , 28170,
and 28175 of 2018

W.P.No.27870 of 2018:

P.Perumal
S/o.Perumal Gounder,
The District Secretary,
Tamil Nadu Vivasaiyal Sangam,
Namakkal District Committee,
Having Office at:-
Thozhar Molipalli V. Ramasamy Memorial,
Opp. to Collector Office,
Namakkal. ...Petitioner

Vs.

- 1.The Superintendent of Police,
Namakkal District Police Department,
Namakkal District.
- 2.The Deputy Superintendent of Police,
Thiruchengode Range,
Namakkal District.
- 3.The Inspector of Police,
Kumarapalayam Police Station,
Namakkal District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the Impugned Order dated : 19.10.2018 in "Na.Ka.No:58/D5PS/2018" of the 3rd respondent and quash the same, and consequently forbearing the respondents, their men, agents and any persons acting on behalf from interfering or jeopardizing the Continuous Sit-in Protest ("Thodar Kathirippu Porattam"), which is going to be held in the Private Land situated in S.F.No.27/1A3 of Padaveedu Village, Kumarapalayam Taluk, Namakkal District, from 12.11.2018, subject to reasonable restrictions.

W.P.No.27873 of 2018:

K.Rajaganesan

... Petitioner

Vs

1 The Superintendent of Police,
Coimbatore District police Department
Coimbatore District.

2 The Deputy superintendent of
Police Coimbatore Range,
Coimbatore District.

3 The Inspector of police,
Negamam police station,
Coimbatore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, prayed this Hon'ble Court may be pleased to issue Writ of Certiorarified Mandamus or any other appropriate Writ Order or Direction to call for the records of the Impugned order dated 20.10.2018 in Na.Ka.No.268/ Thu.Kaa.Ka/ Po.U.Ko/2018 of the 2nd Respondent and quash the same and consequently forbearing the Respondents their Men, Agents & any persons acting on behalf from interfering or jeopardizing the continuous sit-in protest (Thodar Kathirippu Porattam) which is going to be held in the private Land situated in S.F No.458/1B of Vadambacheri village Sulur Taluk coimbatore District from 12.11.2018 subject to reasonable restrictions.

W.P.No.27866 of 2018:

M.Rajamani

... Petitioner

Vs

1 The Superintendent of Police
Tiruppur District police Department
Tiruppur District

2 The Deputy superintendent of
police Palladam Range Tirupur District

3 The Inspector of police
Kamanaickenpalayam police station Tiruppur
District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, prayed that this Hon'ble Court may be pleased to issue Writ of Certiorarified Mandamus or any other appropriate Writ Order or Direction to call for the records of the Impugned order dated 19.10.2018 in Na.Ka.No.54/Kaa.Thu.Ka.A.Pa/2018 of the 2nd Respondent and quash the same and consequently forbearing the Respondents their Men, Agents any persons acting on behalf from interfering or jeopardizing the continuous sit-in protest (Thodar Kathirippu Porattam) which is going to be held in the private Land situated in S.F No.391/1 and 2 of V.Kallipalayam village palladam Taluk Tiruppur District from 12.11.2018 subject to reasonable restrictions.

W.P.No.27876 of 2018:

S.Balaraman

.... Petitioner

Vs

- 1 The Superintendent of Police
Tiruvannamalai District police Department
Tiruvannamalai District.
- 2 The Deputy superintendent of
police Tiruvannamalai Rural Range
Tiruvannamalai District.
- 3 The Inspector of police
Keezhpennathur police station
Tiruvannamalai District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, prayed that this Hon'ble Court may be pleased to issue Writ of Certiorarified Mandamus or any other appropriate Writ Order or Direction to call for the records of the Impugned order dated 16.10.2018 in Na.Ka.No.165/C4PS/2018 of the 3rd Respondent and quash the same and consequently forbearing the Respondents their men Agents any persons acting on behalf from interfering or jeopardizing the continuous sit-in protest (Thodar Kathirippu Porattam) which is going to be held in the private Land situated in S.F No.54/1 and 6 of Chinnagangeyanur village Tiruvannamalai Taluk Tiruvannamalai District from 12.11.2018 subject to reasonable restrictions.

W.P.No.28170 of 2018:

A.M.Munusamy

... Petitioner

Vs

- 1 The Superintendent of Police
Erodu District Police Department
Erode District.
- 2 The Deputy Superintendent of
Police Erode Town Range,
Erode District.
- 3 The Inspector of Police
Thaluk Police Station,
Erode District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, prayed that this Hon'ble Court may be pleased to issue Writ of Certiorarified Mandamus or any other appropriate Writ Order or Direction to Call for the Records of the Impugned Order dated 21.10.2018 in Na.Ka.No.C.No.437/P/SDO-ET/2018 of the 2nd Respondent and quash the same and consequently forbearing the Respondents their Men Agents and any persons acting on behalf from interfering or jeopardizing the Continuous Sit-in Protest (Thodar Kathirippu Porattam) Which is going to be held in the Private Land Situated in R.S.No.84/2 and S.F.No.173 of Thottani Village Erode Taluk Erode District from 12.11.2018 subject to reasonable restrictions.

W.P.No.28175 of 2018:

A.Anbazhagan

... Petitioner

Vs

- 1 The Superintendent of Police
Salem District Police Department
Salem District.
- 2 The Deputy Superintendent of Police,
Vazhapadi Ranga, Salem District.
- 3 The Inspector of Police,
Vazhapadui Police Station,
Salem Dstrict. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, prayed that this Hon'ble Court may be pleased to issue Writ of Certiorarified Mandamus or any other appropriate Writ Order or Direction to Call for the Records of the Impugned Order dated 21.10.2018 in Na.Ka.No.C.No.411/Kaa.Thu. Kaa/Valapady/18 of the 2nd Respondent and quash the same and consequently forbearing the Respondents their Men Agents and any persons acting on behalf from interfering or jeopardizing the Continuous Sit-in Protest (Thodar Kathirippu Porattam) Which is going to be held in the Private Land Situated in S.F.No.120/1A1C1 of Kattuveppilaipatti Village Vazhapady Taluk Salem District from 12.11.2018 subject to reasonable restrictions.

For Petitioner : Mr.Lakshmi Narayanan
for Mr.Va.Vusi Vazhakagam

For Respondents : Mr.M.Mohamed Riyaz
Add. Public Prosecutor

COMMON ORDER

The subject matter of challenge in all these writ petitions are the impugned orders passed by the 2nd/ 3rd respondent refusing to grant permission to the petitioner to conduct the Ulliruppu Porattam [Sit-in Protest] to be held in the Private Land belonging to the petitioners.

2.In all these writ petitions, the petitioners are agitating against the non payment of adequate compensation under the amended Land Acquisition Act, for acquiring the lands belonging to the farmers for a Power Transmission Project, which was going to be implemented across Tamil Nadu covering (7 Districts). In all these writ petitions, the common cause that has been projected by the petitioner is that adequate compensation for the loss incurred by the land owners due to the putting up of the Tower and the Tower lines in the agricultural land belonging to the petitioners is not paid in accordance with the right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, and thereby, the right of property guaranteed to the land owners under Article 300A of the Constitution of India is being violated. The petitioners wanted to conduct agitation by sitting in the Patta lands belonging to the petitioners. The nature of protest is a continuous Sit-in Protest, till the demands of the farmers are met by the State Government.

3.The learned counsel for the petitioners would submit that in all the writ petitions, respondent Police have rejected the permission mainly by placing reliance upon Section 30(2) of the

Police Act. The learned counsel would submit that this provision will not apply to the facts of the present case, because the agitation is planned to be conducted in a Private Patta Land and Section 30(2) will only come into operation, where the agitation is held in a public place.

4. The learned counsel for the petitioners also brought to the notice of this Court the earlier judgment passed by this Court, while dealing with the scope of permission to be granted in cases of this nature. The relevant portion is extracted hereunder:

"16. If the argument of the learned Special Government Pleader is accepted, then for putting up or hanging the picture of one's own parents or forefathers in the private pattadars' lands, they should move the authorities (whether it is local body, revenue or police authorities) for seeking such permission. Such step is never contemplated. The attempt by the respondents is to clutch to a non-existing power. The Special Government Pleader had attempted to submit that the Government guidelines can be a law also cannot stand to reason. An embargo on the citizen's right to make use of his own land without any hindrance and it can be done in the absence of any valid law circumscribing such act, cannot be entertained by this court. A fetter on a citizen's right must be spelt out by a valid law made by the State legislature and that law alone can regulate the questions raised in this writ petition.

19. Further in the present case, the land owner pattadar had given a sworn statement notarized by the notary public, which could be treated as a valid authorization. It is not as if there are any other contending party to the said land. Whether the statue should be made of clay or wood or stone or metal is to be left to the volition of the organizers of the event. It may be the policy of the State that bronze statue alone should be erected in public places, lest any other forms are likely to be damaged by miscreants or by political rivals. But such ideas cannot be thrust upon private citizens who set up memorial in their own private lands. Nowhere in the written statement, the District Collector had

said that there is any threat or opposition for erecting the statue of Muthukumar. It is for the organizers like the petitioner to take care of their memorials in the event of their proceeding to erect the statue in the village in question".

5. The learned counsel for the petitioners also brought to the notice of this Court the judgment of the Division Bench in W.A.No.547 of 2016, wherein, the judgment of the learned Single Judge referred supra has been relied upon.

6. The learned counsel for the petitioners would further submit that the petitioners has also given an undertaking to the effect that no disturbances will be caused to the general public due to the continuous Sit-in Protest to be conducted by the petitioners and Ample Parking Spaces, Hygienic Toilet Facilities, Drinking Water, Food Facilities, Waste Managements will also be in place in the Venue, where the Continuous Sit-in Protest is planned to be held. The learned counsel for the petitioners brought to the notice of the Court a specific undertaking at paragraph 12 in the affidavit of grounds which is extracted hereunder.

"XII. The petitioner do hereby willing to provide an Undertaking that no disturbance to any Public would be caused due to the Continuous Sit-in-Protest ("Thodar Kathirippu Porattam") of the petitioner. Ample Parking Spaces, Hygienic Toilet Facilities, Drinking Water, Food Facilities, Waste Managements are also in place in the Venue, where the Continuous Sit-in Protest ("Thodar Kathirippu Porattam") is supposed to be held".

7. The learned Additional Public Prosecutor would submit that even though the sit in agitation is going to be held in the Private Land, since it involves a huge crowd attending the agitation, for the maintenance of the law and order, the Police will have to necessarily step in, in order to regulate the crowd. The learned Additional Public Prosecution would further submit that the Police must also have a vigil as to the persons who are attending the Sit-in agitation in order to ensure that the agitation goes on peacefully without giving rise to any unnecessary law and order problem.

8. This Court has carefully considered the submissions made on either side.

9.It is an admitted case that the farmers across seven Districts want to express their grievance with regard to the payment of compensation for acquiring their lands to put up power transmission project. The agitation is planned to be conducted only in a Private Patta Land. Strictly speaking, a permission under Section 30(2) of the Police Act is not even contemplated. However, since the agitation is going to be attended by a large number of people, the Police has to necessarily step in in order to maintain peace and to stop any unnecessary law and order problem. That does not mean that the respondent Police can all together stop the petitioners from conducting the agitation by imposing a blanket bar under Section 30(2) of the Police Act. This provision is more regulatory in nature and it cannot be used to completely curtail the freedom of speech and trifle any democratic dissent of the citizens. After all, the farming lands are being taken over for a power project and the farmers are seeking for a proper payment of compensation under the amended Land Acquisition Act. According to the petitioners, the farmers have been deprived of the payment of proper compensation, and therefore, the only way, the farmers can make the State Government pay the compensation is by drawing their attention, by conducting a peaceful Sit-in-Protest in the lands belonging to the farmers. The Sit-in agitation conducted in the Patta Land belonging to the farmers cannot be prevented by the respondent Police. The respective impugned orders that are the subject matter in all the writ petitions clearly reflect colourable exercise of power and clear non application of mind. All the impugned orders therefore, are liable to be set aside by this Court.

10.In the result, the writ petitions are allowed. The petitioners are entitled to carry on with the Sit-in agitation in their own Private Land. It is also made clear that the petitioners shall strictly comply with the undertaking given by them in their affidavit at para 18.

11.The respondent Police shall not interfere with the peaceful conducting of the agitation by the petitioners except where there is a chance of any unnecessary law and order problem being created. The respondent Police shall ensure that the agitation goes on peacefully and shall also provide necessary Police protection.

12.The learned counsel for the petitioners submitted that originally the agitation was planned to be conducted on 22.10.2018 and thereafter, it was postponed to 12.11.2018. Due to paucity of time, the petitioners will inform the respondent Police about the future date, on which the agitation is going to be conducted. This information will be given to the respondent

Police by the petitioners at least one week in advance, so that the respondent Police can prepare themselves to give sufficient security in and around the places, where the agitation is planned to be conducted.

13.The writ petitions are disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KP
To

- 1 The Superintendent of Police,
Namakkal District Police Department,
Namakkal District.
- 2 The Deputy Superintendent of Police,
Thiruchengode Range,
Namakkal District.
- 3 The Inspector of Police,
Kumarapalayam Police Station,
Namakkal District.
- 4 The Superintendent of Police,
Coimbatore District.
- 5 The Deputy superintendent of
Police Coimbatore Range,
Coimbatore District.
- 6 The Inspector of police,
Negamam police station,
Coimbatore District.
- 7 The Superintendent of Police
Tiruppur District police Department
Tiruppur District.
- 8 The Deputy superintendent of Police
Palladam Range Tirupur District

- 9 The Inspector of police
Kamanaickenpalayam police station Tiruppur
District
- 10 The Superintendent of Police
Tiruvannamalai District police Department
Tiruvannamalai District.
- 11 The Deputy superintendent of
police Tiruvannamalai Rural Range
Tiruvannamalai District.
- 12 The Inspector of police
Keezhpennathur police station
Tiruvannamalai District.
- 13 The Superintendent of Police
Erodu District Police Department
Erode District.
- 14 The Deputy Superintendent of
Police Erode Town Range,
Erode District.
- 15 The Inspector of Police
Thaluk Police Station,
Erode District.
- 16 The Superintendent of Police
Salem District Police Department
Salem District.
- 17 The Deputy Superintendent of Police,
Vazhapadi Ranga, Salem District.
- 18 The Inspector of Police,
Vazhapadui Police Station,
Salem District.

+6cc to Mr.Va.Vu.Si.Vazhakagam, Sr.76369, 76370,
76368,76373,76372,76371

W.P.Nos.27870, 27873, 27866, 27876 , 28170,
and 28175 of 2018

ca[co]
srg 28/11/2018