

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.29476 of 2018

L.C.Mani

... Petitioner

Vs.

- 1.The Director General of Police,
Tamil State Police Head Quarters,
No.1, Radhakrishnan Road,
Mylapore, Chennai - 600 001.
- 2.The Superintendent of Police,
Vellore District Police Department,
Vellore District.
- 3.The Deputy Superintendent of Police,
Ranipettai Police Range,
Vellore District.
- 4.The Inspector of Police
Arcot Police Station,
Vellore District.

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to provide Police Protection for the Continuous Sit-in Protest ("Thodar Kathirippu Porattam") to be held in the Private Land in Muappadhu Vetti By-Pass Road, Opp: to Vinayagar Koil, Arcot Taluk, Vellore District from 17.12.2018 onwards.

For Petitioner : Mr.Lakshminarayanan
for M/s.VA.VU.SI.Vazhakagam

For Respondents : Mr.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to provide Police Protection for the Continuous Sit-in Protest ("Thodar Kathirippu Porattam") in the private lands belong to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner is the District Secretary of the Vellore District Committee of Tamil Nadu Vivasaiyal Sangam, which is working for the Rights and Livelihood of Farmers.

3. The Government of Tamil Nadu wanted to implement several power transmission projects. For the said purpose, vast area of Agricultural lands, are sought to be acquired. That apart, the land owner, whose land has already been taken on acquisition, have not been provided with adequate compensation as per the right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. The further grievance of the petitioner is that the agricultural lands are being forcibly taken possession without following the due process as contemplated under the Indian Telegraph Act 1885, the Electricity Act 2003 r/w the Works of Licensees Rules 2006.

4. The petitioner therefore wanted to express his dis-satisfaction in the manner, in which the acquisition is going on and therefore in support of the farmers, the petitioner wanted to conduct Sit-in Protest. This Sit-in Protest was planned to be conducted in the private land belonging to the farmers. However, the respondent police is not permitting the petitioner to conduct any Sit-in Protest and the same is in violation of the fundamental right of speech and expression. Left with no other option, the petitioner has approached this Court seeking for the appropriate relief.

5. The learned Additional Public Prosecutor on instructions would submit that in the guise of conducting agitation, the petitioner is instigating other farmers to conduct the strike and agitations by coming to the main road/high ways and thereby are disturbing the free flow of traffic. Therefore, the police will have to necessarily ensure that the free flow of traffic is not disturbed and there is no law and order problem.

6. The learned counsel for the petitioner brought to the notice of this Court, the earlier order passed by this Court in W.P.No.27870, 27873, 27866, 27876, 28170 and 28175 of 2018 dated 08.11.2018.

7. The relevant portions of the order is extracted hereunder:-

"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 ones 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 won 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 to private citizens who sets 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.

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."

8. The learned counsel for the petitioner would further submit that the petitioner has also given an undertaking to the effect that no disturbance will be caused to the general public due to the continuous Sit-in-protest to be conducted by the petitioner 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.

9. The learned counsel for the petitioner would point out the ground in paragraph 19 of the affidavit, which is extracted hereunder:-

"19. The petitioner do hereby willing to provide an Undertaking that no disturbance would be caused to any Public due to the Continuous Sit-in Protests ("Thodar Katirippu Porattam") of the petitioner. Ample Parking Spaces, Hygienic Toilet Facilities, Waste managements are also in place in the Venue, where the Continuous Sit-in Protest ("Thodar Kathirippu Porattam") is supposed to be held. It is also assured that the petitioner do hereby willing to any other Conditions as mentioned in the orders of this Court in W.P.No.27870, 27873, 27866, 27876, 28170 and 28175 of 2018 dated 08.11.2018."

10. This Court has carefully considered the submissions made on either side and the earlier order passed by this Court.

11. This Court is of the considered view that the petitioner is entitled to carry on with the Sit-in agitation in the private lands belonging to the farmers. It is also made clear that the petitioner will strictly comply with the undertaking given by him in the affidavit in paragraph 19.

12. The respondent police shall not interfere with the peaceful conduct of agitation by the petitioner except, where any law and order problem is being created. The respondent police shall also ensure that the agitation goes on peacefully and shall also provide necessary police protection.

13. This criminal original petition is disposed of with the above direction.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Director General of Police,
Tamil State Police Head Quarters,
No.1, Radhakrishnan Road,
Mylapore, Chennai - 600 001.
- 2.The Superintendent of Police,
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Vellore District.
- 3.The Deputy Superintendent of Police,
Ranipettai Police Range,
Vellore District.
- 4.The Inspector of Police
Arcot Police Station,
Vellore District.
- 5.The Public Prosecutor,
Madras High Court, Chennai.

+1 CC to Mr.Va vu si Vazhakagam, Advocate sr 88053.

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SP(08/01/2019)

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