



W.P.(MD)No.16272 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.16272 of 2021

and

W.M.P.(MD)Nos.13116 & 13117 of 2021

Dhaveethuraja

... Petitioner

Vs.

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Revenue Division Officer,
Kovilpatti,
Thoothukudi District.

3.The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.

4.Senthur S.Mahesh

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, by calling for the entire records pertaining to the impugned order issued by the second



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respondent vide proceedings in Na.Ka.Aa1/651/2021 dated 16.08.2021
and quash the same as illegal.

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For Petitioner : Mr.R.L.Dhilipan Pandian
For R1 to R3 : Mr.R.M.Anbunithi,
Additional Public Prosecutor
For R4 : No Appearance

ORDER

This Writ Petition has been filed to quash the impugned order issued by the second respondent vide proceedings in Na.Ka.Aa1/651/2021 dated 16.08.2021.

2.According to the petitioner, he has been indulging in politics and and fight for rights of the people. In the due course his uncle late.Kanagaraj , with the help of his political influence had taken steps to have Dr.Ambedkar statue in Ettayapuram Road. Pursuant to his hard efforts on 01.10.1987, the same was happened and the said statue was opened by one Mr.K.Ramasamy Reddiyar with the presence of then



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Minister of Adi Dravidar Welfare. Till the demise of his uncle, the said statue was under the maintenance of him and after his demise, the maintenance of the statue was handed over to one Palraj. After his demise, the maintenance of the statue came to the petitioner. After some time, highways department, in lieu of expanding the road, had conducted peace committee meeting under the second respondent and concluded to shift the statue from Ettayapuram road to opposite to the Government Hospital, Kovilpatti. Even while shifting, the statue was under his control and he only took care of the same. The Special District Revenue Officer (Land Acquisition), through her proceedings dated 07.07.2017 sanctioned Rs.3,01,477/- for shifting charges. When thus being the situation, the fourth respondent herein with a view to take possession of the statue, had given a representation dated 09.08.2021 to the respondents by threatening that he is going to conduct an agitation for sanctioning the petitioner Rs.3,00,000/- for shifting the statue and pursuant to the same, the second respondent had initiated proceedings under Section 145 Cr.P.C., by stating that there will be a breach of peace. The second respondent conducted an enquiry and without even verifying that there is no breach of peace, had passed the impugned final order



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vide proceedings in Na.Ka.Aa1/651/2021 dated 16.08.2021 and the same is liable to be quashed.

3.No counter was filed by the respondents.

4.The learned counsel appearing for the petitioner would contend that the petitioner is maintaining the statue for a very long time and there is no dispute with regard to the same. Already statue was shifted from Ettayapuram road to opposite to the Government Hospital, Kovilpatti. For the above said shifting, the Special District Revenue Officer sanctioned Rs.3,01,477/- to the petitioner and thereby, the fourth respondent has objected and gave representation dated 09.08.2021. Based on the representation, a proceedings was initiated under Section 145 Cr.P.C and the petitioner was also summoned. The petitioner appeared for enquiry and thereafter, the impugned order was passed, without conducting proper enquiry and without considering the real facts. Already the same respondent police have admitted that the petitioner is only maintaining the statue and there is no dispute with regard to the maintenance. Only based on the false complaint given by



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the fourth respondent, the impugned order came to be passed and the same is liable to be set aside.

5.The learned Additional Public Prosecutor appearing for the official respondents would contend that since there was dispute between the petitioner and the fourth respondent, they conducted enquiry and passed impugned order. Further, the statue is situated in the government land and the same has to be maintained by the Government and thereby, the impugned order passed by the second respondent is in accordance with law. Since there was dispute between two groups, the second respondent passed an order to hand over the key to the concerned police and the petitioner also handed over the key and now, the statue is under the maintenance of the official respondents. Therefore, there is no illegality or infirmity in the order passed by the second respondent and hence, this writ petition is liable to be dismissed.

6.Heard both sides and perused the materials available in the records.



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7.It is admitted fact that the petitioner herein is only maintaining the statue and he has no right over the statue. It is also admitted fact that the fourth respondent has given representation dated 09.08.2021 and based on that representation only, the official respondents have initiated proceedings under Section 145 Cr.P.C and the same was also reflected in the affidavit of the petitioner. It is admitted that the petitioner also appeared before the official respondents and he was also enquired by the official respondents and thereafter only, the official respondents passed the impugned order. Since the statue is related to National Leader, the Government has to take care of the maintenance. Further, after giving opportunity to the both parties, the impugned order came to be passed by the official respondents and there is no scope to interfere with the same and thereby, there is no merits in the present writ petition and the same deserves dismissal.

8.At this juncture, the learned counsel appearing for the petitioner requested to give permission to the petitioner to garland the statue. In this regard, he has to approach the concerned authorities and the



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authorities have to consider the request of the petitioner, based on the local situation and other law and order problem.

9.In the result, in view of the above discussions, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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