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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.12.2023

Pronounced on : 04.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24595 of 2023

R.Kanthavel
Founder Trustee
Mustakkuruchi Pasumpon
Muthuramalinga Thevar Charitable Trust
Mustakkuruchi & Post-623603,
Ramanathapuram District.

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.

2.The Additional Chief Secretary to Government/
Commissioner of Revenue Administration,
Fort St.George, Chennai 600 009.

3.The District Collector,
Ramanathapuram,
Ramanathapuram District.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents herein to grant necessary permission to erect and unveil the Bronze statue of Thiru.Pasumpon Muthuramalinga Thevar in petitioner's Trust land in Survey No.532/4 at Mustakkuruchi Village in Door No.2/68 of Mustakkuruchi Village Panchayat.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

The petitioner is the founder-trustee of Mustakkuruchi Pasumpon Muthuramalinga Thevar Charitable Trust. It is a registered body. The trust has constructed a community hall bearing Door No.2/68. The trust has resolved to erect the bronze statue of Thiru.Pasumpon Muthuramalinga Thevar in the said campus. Though the petitioner has moved the authorities for erecting the statue, no order was passed till date. The petitioner, therefore, filed WP(MD)No.18056 of 2019 for directing the District Collector, Ramanathapuram to consider granting permission for erection of the statue. The writ petition was disposed of on 20.08.2019 in the following terms :



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“13.As has been rightly pointed out by the learned counsel for the petitioner, the issue of erecting the statue of a National Leader/freedom fighter in private land/patta land is no longer unsettled as there is no restriction from the side of the Government and in this context, the aforesaid judgments, relied upon by the learned counsel for the petitioner, have given clear guidelines.

14.In that view of the matter, since the petitioner also wanted to erect the statue of a Freedom Fighter, that too, in a patta land belong to the petitioner, for which, permission has been granted by the village panchayat by passing resolution to that effect in the year 2012 itself, this Court is inclined to dispose of this writ petition with the following directions:-

“that the respondent is hereby directed to consider the representation of the petitioner, dated 10.07.2019 seeking permission to erect and unveil the statue of the Freedom Fighter Thiru.Pasumpon Muthuramalinga Thevar at the private patta land of the petitioner, in the light of the judgments, as referred to above, as well as the Panchayat resolution passed in the year 2012 by the village panchayat concerned and after affording an opportunity of being heard to the petitioner, final order shall be passed by the respondent/District Collector, within a period of six weeks from the date of receipt of a copy of this order.”



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2.The direction given by this Court was not complied with. Hence, the petitioner filed Contempt Petition (MD)No.1225 of 2022. The contempt petition was closed in the following terms :

“2.Mr.D.Gandhiraj, learned Special Government Pleader appearing for the respondent would submit that the contemnor has submitted a detailed report to the Additional Chief Secretary/Commissioner of Revenue Administration on 12.11.2020 and recommended for installing the statue of Thiru.Pasumpon Muthuramalinga Thevar. Further, he has also sent a reminder communication to the Additional Chief Secretary/Commissioner of Revenue Administration on 16.09.2022 to pass final orders on or before 13.10.2022. However, till date no final order has been passed.”

The petitioner was given liberty to approach the Commissioner of Revenue Administration by sending representation. However, till date, no order has been passed on the petitioner's request. That led to the filing of this writ petition.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to grant the relief sought for. On the other hand, the learned Additional Government Pleader appearing for the



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respondents submitted that Government Orders issued from time to time have stipulated certain restrictions and that therefore, the petitioner cannot install the statue without getting permission from the Government. He placed particular reliance on G.O Ms No.140 Rural Development and Panchayat Raj Department dated 18.12.2009.

4.I carefully considered the rival contentions and went through the materials on record. Since notwithstanding the direction issued by this Court, the authorities have not passed an order, I am inclined to consider the issue on merits. What does the petitioner want? He wants to install the statue of a highly revered freedom fighter and leader in a community hall built on a patta land. Does he require prior permission from the government or any other statutory authority?. The issue is no longer res integra. The answer is that to erect a statue such as the one on hand on a patta land, permission from the authorities is not required. This is because there is no statute governing the subject matter. A patta holder has certain rights over his land. Just as one's home is his castle, one's land is his fiefdom. The State can step in only by due process of law. A statutory or common law right cannot be restricted or taken away through



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a executive instructions or government orders. Only a statute that is not ultra vires the Constitution can impinge on such rights. For instance, if one wants to put up a religious structure for public worship, then, prior permission from the District Collector would be required. Since there is no such statutory provision or Rule regarding installation of statues, the right of an individual to erect a statue in honour of a person whom he reveres cannot be stifled or interfered with.

5.It is true that G.Os were issued from time to time framing guidelines in this regard. They have been considered in many a case. Let me refer to some of them. A learned Judge of this Court vide order dated 14.08.2023 in *W.P.No.23485 of 2023 (Tamil Nadu Yadava Mahasabai Kancheepuram District Rep by its District Secretary Vs. District Collector)* held as follows:-

“7.Right to property is a Constitutional right, and it cannot be interfered with except as per a fair procedure established by law. No legislature or the executive can arrogate to themselves any power to interfere with the private life of a citizen. A citizen has every right to use his property subject only to any objectual regulation. Directing a citizen not to erect a statue as a mark of respect for a freedom fighter in his property involves both a right to faith and right to privacy,



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both of which are fundamental rights now recognised under the Constitution.

8.The authority of the State therefore, commences where the boundaries of the private property ends. To state it differently, no State has any right to interfere with the private life of a citizen and his right to erect any statue within the private premises. It is plainly not the business of the State and its instrumentalities. The State does not have the authority to peep into the private affairs of the citizens through which they give expression to the exercise of their fundamental and constitutional rights.

9.1 This Court has least hesitation in holding that the respondents have exceeded their authority in entering a private property without authority and covering the statue in question when the regulation regarding erection of statue is limited to only public places. The respondents have terribly misunderstood the G.O.(Ms) No.183. Indeed, this Court even doubts if ever the legislature or the executive can ever make a law or an executive order for restraining the citizen from erecting statues when they are done consistent with his right to faith within his private property.”

6.Vide order dated 29.08.2012 in ***W.P.(MD)No.8935 of 2012 (Srivilliputhoor Saiva Vellalar Sangam Vs.District Collector)***, a learned Judge of this Court held as follows:-



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“4..... the learned counsel for the petitioner placed reliance upon the judgment of this Court in P.Maniyarasan .vs. The Government of Tamil Nadu reported in 2011(1) CWC 379, this Court after reviewing the orders of the Government as well as the judgement passed by this Court in T.Amirthalintam .vs. State, represented by its Secretary, Department of Home, Chennai and others reported in 2010 (2) MLJ 1022 has observed that there is no authority for the Government to prevent the persons installing statue in a private land which according to the persons who believe in the greatness of their individuals. Further as to the nature of statue to be installed, this Court is of the view that there is no impediment for a person to install a statue depending upon their wishes whether the statue should be made of clay or wood or stone or metal as the case may be, the State cannot interfere with the same. At this juncture, the learned counsel for the petitioner also produced a copy of the D.O Letter of the Principal Secretary to Government, Government of Tamil Nadu, Chennai addressed to the District Collector, Virudhunagar District, dated 12.08.2008. In that case, relating to installation of the statue of Pasumpon Muthuramalinga Thevar at Rajapalayam. In that case, the State Government had stated that for unveiling statue, there is no requirement of the State Government's permission and if any statues are installed, appropriate steps should be taken to protect the same from being damaged by anti-social elements. There should not be any room for law and order problem. From this, it is made clear that for installation of the statue of V.O.Chidambaram Pillai, who has rendered his life for the independence of this



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country and in the absence of any legal impediment, there is no question of preventing the petitioner Sangam from unveiling the statue on their own association compound.”

7.It is also relevant refer to the order dated 10.01.2017 in W.P.No. 43657 of 2016 (*V.R.Vengan Vs. State represented by Secretary Department of Home Secretariat, Fort St. George Chennai*). The petitioner wanted to install the full size bronze statue of Shri.E.V.Ramasamy in his private land. It was held that it is not open to the Government to prevent an individual from installing the statue of a person esteemed by him in his private land. Vide order dated 13.07.2015 in W.P.No.9249 of 2015 (*Ramadurai Vs. District Collector*), a learned Judge of this Court held that in regard to installation of statues, there is no ban for installing the statues in the private patta lands. Of course, in some of the orders, there has been direction to the authorities after clarifying the law to consider and pass orders. In my view, when once it has been concluded that there is no ban and permission from the authorities is not required, there is no need to once again call upon the petitioner to go before the authority and obtain permission. That would be a contradiction in terms. That is why, instead of granting relief as



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prayed for, I declare that the petitioner is at liberty to unveil the statue of Thiru.Pasumpon Muthuramalinga Thevar within the premises of the petitioner's community hall.

8.The Writ Petition is allowed on these terms. No costs.

04.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi/skm

To

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G.R.SWAMINATHAN, J.

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