



WEB COPY



W.P.No.4715 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4715 of 2011
and MP.No.1 of 2011

1.P.Ranganathan (deceased)

2.Buddha Trust
Rep.by its Trustee R.Selvakumar
Reg.No.BK4/32/2020,No.118
Govindasamy Colony, 13th Ward
Salem 636 008.

... Petitioners

(P2 substituted as LR of deceased sole petitioner vide order dt.05.07.2022 made in WMP.16600/2022 in WP.4715/2011 by NAVJ).

.Vs.

1.State of Tamil Nadu
Rep.by its Secretary to Government
Hindu Religious and Charitable Endowment Department
Secretariat, Chennai 600 002.

2.The Commissioner
Hindu Religious and Charitable Endowment Department
Nungambakkam, Chennai 600 034.

3.The District Collector
Salem District, Sale.

4.The Director
Archaeological Survey of India
Egmore, Chennai-600 008.



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5.The Executive Officer
Thalavetti Muniyappan Temple
Kottai Mariamman Temple Campus.

6.The Principal Secretary and
Commissioner
Archaeological Department
Tamil Development, Halls Road
Egmore, Chennai-8.

... Respondents

(R6 suo motu impleaded as per the order
dt.20.11.2017 by VPNJ in WP.4715/2011)

Prayer: Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Mandamus (a) directing the 4th respondent to conduct inspection of the said statue at Thalaivetti Muniyappan Temple at Kottai Road Periyeri Village Salem District and submit a detailed report to this Hon'ble Court as to its identity and antiquity ; (b) direct the respondents 1 to 3 to take appropriate action to restore the said lands in survey no.615/A2/A1 in Kottai Road, Periyeri Village, Salem to a Buddha Trust based on the report of the 4th respondent and the petitioner's representation dated 21.02.2011.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.S.Yashwanth
Additional Government Pleader
for R1, R2 and R5

Mr.T.K.Saravanan
Government Advocate
for R3, R4 and R6



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ORDER

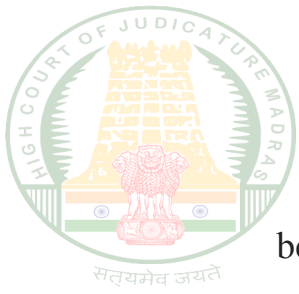
WEB COPY This writ petition was filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner and to restore the lands to its original status.

2.The writ petition was taken up for final hearing on 20.11.2017 and this Court passed the following order:

The prayer in the main writ petition is as follows:

"To direct the respondents 1 to 3 to take appropriate action to restore the said lands in Survey No.615/A2/A1 in Kottai Road, Periyeri Village, Salem to a Buddha Trust based on the report of the fourth respondent and the petitioner's representation dated 21.02.2011".

2. The petitioner has also come up with a preliminary prayer, seeking to direct the Principal Secretary and Commissioner, Archaeological Department, Tamil Development, Halls Road, Egmore, Chennai-8, to inspect and file a report before this Court in regard to the statue of "Thalaivetti Muniyappan Temple at Kottai Road, Periyeri Village, Salem District regarding its identity and antiquity. According to the petitioner, the statue which is installed therein is one Lord Buddha and it has been worshipped by the followers Buddhism for many years. However, over a period of time, the statue has



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been converted into one of Hindu deity and being worshipped by the Hindus.

3. The petitioner has made detailed submissions in support of his claim that the Temple was originally a Buddha Temple. The said submission has been refuted by the learned Special Government Pleader appearing for the respondents

4. The status of the Temple whether it was Buddhist or Hindu one is being seriously disputed by the rival parties on the basis of the affidavits alone. The controversy cannot be resolved by this Court, which is exercising his jurisdiction under Article 226 of the Constitution of India. However, in order to give quietus to the entire controversy, this Court is of the prima facie view that a preliminary direction should be issued to the authorities concerned to inspect the the subject temple and submit a detailed report as to the rival claims of the parties.

5. It is represented by the learned counsel for the petitioner that there is mis-description in the cause title regarding the fourth respondent, sin seeking the relief only against the following respondent:

Principal Secretary and Commissioner,
Archaeological Department,
Tamil Development, Halls Road,
Egmore, Chennai-8.

6. Since the above said official is the competent authority to apprise this Court, of the true status of the temple, the authority is being impleaded as sixth respondent suo-motu by



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this Court.

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7. In these circumstances of the case, the Principal Secretary and Commissioner, Archaeological Department, Tamil Development, Halls Road, Chennai-8, is directed to inspect and file a detailed report, as to the claim of the petitioner vis-a-vis the submissions of the respondents. The sixth respondent is hereby directed to either inspect and file a report himself or he may depute any other responsible official, who may visit the spot and in consultation with the other authorities concerned shall prepare and file a detailed report before this Court within a period of four weeks from the date of receipt of a copy of this order.

8. It is also made clear that before preparation of the report, the 6th respondent or the official concerned shall provide an opportunity of personal hearing to the petitioner and the petitioner is directed to make available all the materials in their possession in support of their claim.

9. Post the matter for further hearing on 22.12.2017.

3. After the representation was filed by the 6th respondent, this Court passed the following order on 05.07.2022.

This Court passed an order on 20.11.2017 impleading the 6th respondent as a party and directed the 6th respondent to inspect and file a report with regard to the true status of the temple.



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2.The 6th respondent has filed a report along with all the relevant documents. The relevant portions in the report are extracted hereunder:

7) *I submit that the Committee inspected the site in details and filed a report as follows:-*

"The Temple

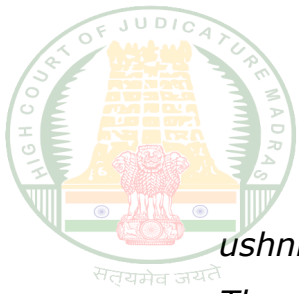
The temple building of Thalaivetti Muniappan is of modern origin. It is built of cement, bricks and concrete. The temple is under the control of Hindu Religious and Charitable Endowments Department, Tamil Nadu. Poojas are performed daily here.

The Thalaivetti Muniappan Sculpture

On 28.07.2021, around 10.00 a.m the joint inspection team inspected the sculpture. It was covered with thick layers of sandal, kunkum, turmeric, ash and oil. In order to inspect the sculpture it was required to remove such coating from the sculpture. Therefore, with the help of the temple priest and his assistants, the sculpture was cleaned completely.

The Iconography of Sculpture

The sculpture was made of hard stone. The figure was in seated position known as "ardhapadmasana" on a lotus pedestal. The hands are posed in "dhyana mudra". The figure were a sagati. The head shows lakshanas of the Buddha such as curly hair,



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ushnisa and elongated earlobe. Urna is not visible on the forehead.

The head was severed from the torso which were glued together with cement and lime mixture a few years ago. However, due to human error or some other reason, the head was not positioned properly to the torso and consequently, the head slightly twisted towards the left side of the body. Height of the image is 108 cm in a cross legged (Ardhapadmasana) posture. The reverse side of the sculpture was flat without any artistic work.

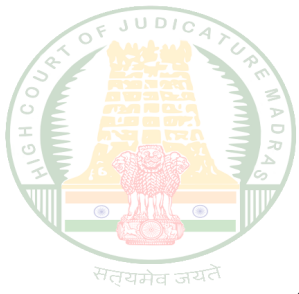
Dimensions of the Sculpture

- *Height of sculpture: 108 CM*
- *Shoulder-to-shoulder length: 58 CM*
- *Height of Ushnisa: 7 CM*

Concluding Remarks

After inspecting the sculpture and carefully examining the available archaeological and historical evidences at our disposal, the Committee collectively expressed their opinion that the sculpture depicts several mahalakshanas (great traits) of the Buddha. The images of the sculpture are also enclosed in the Annexure."

3.It is clear from the above report that the sculpture clearly depicts "Buddha". Till now, the same is under the control of the HR & CE Department and an Executive Officer was also appointed on the premise that it is a temple. In view of the categorical report submitted by the 6th respondent, the assumption of the HR & CE Department that it is a temple is no longer sustainable and the control must go into the hands of some other authority.



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4.The learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents submitted that he will take instructions in this regard and report before this Court. The learned Additional Government Pleader and learned Government Advocate shall inform this Court as to who will take control of the sculpture going forward. After this Court ascertains the transfer of control to another authority, appropriate orders will be passed in this writ petition.

5.Post this case under the same caption on 19.07.2022.

4.This Court directed the learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents to take instructions and inform this Court as to who will take control of the sculpture inside the property. The learned Additional Government pleader on written instructions received from the Executive Officer submitted that this place has been treated as a Temple of Thalaivetti Muniappan for a considerable period and the people in the locality also used to come to this place for worship. Therefore, the learned counsel submitted that the HR & CE Department will continue to take control of this place by treating it as a Temple.

5.The 6th respondent after inspecting the premises and after carefully analyzing the sculpture has come to a categorical conclusion that the sculpture depicts the mahalakshanas of the Buddha. After having received such a report, it will not be appropriate to permit the HR & CE Department to continue to treat this sculpture as



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Thalavetti Muniappan. The mistaken identity cannot be allowed to continue after coming to a conclusion that the sculpture is that of Buddha. In view of the same, the original status must be restored and permitting the HR & CE Department, to continue to treat the sculpture as Thalavetti Muniappan, will not be appropriate and it will go against the very tenets of Buddhism.

6.Considering the facts and circumstances of the case, there shall be a direction to the 6th respondent to take control of the property in which the sculpture has been placed and it shall be maintained by the 6th respondent. The 6th respondent shall also erect a Board inside the property by depicting the sculpture inside the property as Buddha. The general public can also be permitted to visit this place and it shall be ensured that no poojas or other ceremonies are allowed to be performed for the sculpture of Buddha.

7.This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2022

KP
Internet: Yes
Index: Yes/No



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To

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N.ANAND VENKATESH. J.,



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