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W.P.(MD)NO.34220 OF 202

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.34220 of 2025

Siva.Kalaimani Ambalam,
Managing Trustee,
Thannarasu Kallar Nadu Charitable Trust,
868, Govindan Complex,
Upstairs of Syndicate Bank,
Melur, Madurai.

... Petitioner

Vs.

1. The District Collector,
O/o.the District Collector, Dindigul.
2. The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Dindigul.
3. The Tahsildar, O/o.the Tahsildar,
Natham, Dindigul.
4. The Superintendent of Police,
O/o.the Superintendent of Police,
Dindigul.
5. The Inspector of Police,
Natham police station,
Natham,
Dindigul District.

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the third respondent in Na.Ka.No. 2898/2024/A3 dated 28.05.2024 and subsequently directing the respondents to grant permission to erect the Memorial Symbol for "Natham Kanawai War" in patta land of the petitioner in survey No. 252/1D2 of Puthur Village of Natham Taluk of Dindigul District.

For Petitioner : Mr.S.Ramsundarvijayraj,
for Mr.V.Kaviyaran
Mr.Saravanakumar

For Respondents : Mr.R.Ragavendran,
Government Advocate for R-1 to R-3.

Mr.A.Albert James,
Government Advocate for R-4 & R-5.

* * *

ORDER

Chennai is the Chess Capital of India. It is now home to a host of superstars in that sport. Gukesh Dommaraju, the current world champion, is a Chennaivasi. Grandmasters with very high ELO ratings such as R.Praggnanandhaa, Vaishali Rameshbabu, Pranesh, Ilamparthi, Aravindh Chithambaram etc., are its residents. We have acharyas such as R.B.Ramesh.



2.How all this became possible ?. Because of the victories scored by one individual. None other than the legendry Vishwanathan Anand.

3.There is a cynical maxim "success has many fathers but failure is an orphan". There is a converse to this. Success will beget many more successes. It can be a huge motivation. It can instill inspiration and trigger transformation. That is why, it is necessary to celebrate success. It is not without reason that the Government of India commemorates Vijay Diwas Day on December 16th every year. It marks the victory of Indian Armed Forces over Pakistan in the 1971 Indo-Pakistan war.

4.India, that is Bharath, is a single nation. It has a civilizational unity. It is also a collection of communities that speak different languages and belong to different regions. Each community has its own sub-communities. They were originally identified by the classes and castes to which they belonged. We have been fused into a common citizenship. Unlike USA which is said to be a melting pot, India is metaphorically termed as a "salad bowl". The different strands retain their identity. The historical memories associated with such identities can be harnessed for higher purposes. The case on hand is one such.



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5.Gen.Sundarji, former Army Chief, was known as a “thinking man's general”. After his demise, his wife Padma brought out a book in his memory. Gen.Sundarji asks the question as to why the soldier on the battlefield willingly gives up his life. The soldier under no circumstance would conduct himself in a way that may bring dishonor to his group. To uphold the regiment's heroic name, any amount of sacrifice is worth it.

6.Article 51A of the Constitution of India mandates that it shall be the duty of every citizen of India to cherish and follow the noble ideals which inspired our national struggle for freedom and to defend the country and render national service when called upon to do so. Many of this generation are unaware of the battles and struggles waged by the Indian society to rid itself of the colonial rule. Imperialism was no respecter of the biblical saying “ask and it shall be given”. The British occupied us and ruled us for close to two hundred years. But right from the beginning, there was resistance and struggle. A false historical narrative has been built as if we got freedom without paying any price. It is again incorrect to assume that the freedom struggle commenced only after 1905 and that it was a movement led by a single organization or a single leader. Tamil Nadu has contributed



singularly to the freedom movement. There are scholars who hold the

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view that the first war of Indian independence was not waged in 1857

but much before and it was waged from the Tamil soil. Several instances are cited. This Court is not competent to go into these historical questions. But it can take judicial notice of the fact that the British met their match in the region of Madurai. Several names come to mind. Marudu brothers, Velunachiyar, Puli Thevar, Kattabomman, Oomaithurai, Valukkuveli Ambalam... the list can go on.

7. Just as we recount the names of those brave warriors, it is also necessary to celebrate the battles when the natives won against the colonial army. Every such victory obtained at great cost and against impossible odds deserves to be relished and the memory of the martyrs honoured. The petitioner who is a practicing lawyer has gathered materials to show that in Natham Pass (Natham Kanavai), there was a bloody confrontation between the Melur Kallars and the English forces in the year 1755 in which the Kallars emerged winners. The English troops had looted Thirumogur (Koilkudi) Temple and taken away the brass idols. The contingent, led by Col. Alexander Heron carrying the idols, was to pass through the Natham Kanavai. To retrieve the sacred idols, the Kallar community gathered in huge



numbers and launched an attack on Heron and his forces. Thousands of lives were lost in the encounter. But the Kallar community succeeded in retrieving all the idols. Heron is said to have returned to Trichirappalli with only 30 surviving sepoys.

8.Kallar community has a martial background. They can be compared to Gurkhas and Rajputs. Probably that was why, the British branded them as criminal tribes. They languished for decades and faced untold hardships till the legendary leader Shri.Pon Muthuramalinga Thevar redeemed the community.

9.To commemorate the Natham Pass battle, the petitioner wants to erect a memorial stupa. He wants to install the same only in a patta land. When the request was made, the Tahsildar, Natham rejected the request. Challenging the same, the present writ petition came to be filed.

10.No doubt, the writ petition has been filed belatedly. But then, the doctrine of laches cannot be invoked in this case. So long as the impugned memo is holding good, the petitioner cannot install the Stupa in the petition-mentioned site. Therefore, the writ petitioner cannot be non-suited on this ground.



11.The respondents have taken a fair stand. They clarify that

since the parliamentary elections were in the offing, the Stupa was not permitted to be erected and there was no other reason. Now the respondents submit that report has been obtained from the jurisdictional police and based on the same, further action can be taken.

12.I am not able to subscribe fully to the aforesaid position.

The petitioner after all wants to erect a stupa to commemorate the victory of native forces over the colonial forces. Such events must be celebrated and preserved for historical memory. I had already taken the view that for installation of the statue of a freedom fighter, that too only in a patta land, no permission is required (vide order dated 04.01.2023 in W.P(MD) No. 24595 of 2023 (R.Kanthavel vs The Principal Secretary to Government). I had held as follows:

"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 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."

This was cited with approval by a learned Single Judge of this Court in W.P No.200 of 2022 (**Piyush Sethia vs The District Collector**). In that case, the petitioner wanted to erect a stone pillar containing the picture of Stan Swamy in a private patta land. Permission was refused by the Tahsildar. It was quashed and permission was granted by this Court. It is true that Stan Swamy is seen as a fighter for tribal rights by sections of society. But the fact remains that he was an accused in a case arising under UAPA. He died in prison. If for erecting stone pillar in memory of Stan Swamy permission is not required, certainly, no permission is required for erecting a stupa in memory of Natham Kanavai battle.



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13.The learned Special Government Pleader brought to my notice G.O.(Ms).No.629, Revenue and Disaster Management Department dated 16.09.2025. He submitted that permission can be obtained in terms of the said G.O. I do not want to go into this issue fully. Admittedly, the said Government Order pertains only to erection of statues. The case on hand pertains to installing only a stupa. There is also no controversy and there is not going to be any law and order implication. Therefore, the Government may not have any objection. That apart, it was already held by the Hon'ble Division Bench vide order dated **28.02.2025 made in W.A.(MD)No.1386 of 2022 (Balasubramani Vs. The District Collector, Virudhunagar)** as follows:-

“5. After a careful consideration of G.O.(Ms)No.183 Revenue Department dated 23.05.2017, we are of the view that it applies only to public places and not to patta lands. It is, of course, open to the Government to bring in a law regulating erection of statues even in private places. But then, so long as such a law has not been enacted, by issuing circulars and Government Orders, the right of an individual to put up a statue in one's patta land cannot be taken away.”



The aforesaid ruling would equally apply to the case on hand notwithstanding the issue of G.O.(Ms).No.629 Revenue and Disaster Management Department dated 16.09.2025.

14. In this view of the matter, the impugned memo is quashed. The petitioner is at liberty to erect the memorial stupa for "Natham Kanawai War" in the petition-mentioned land. This writ petition stands allowed. No costs.

26.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

SKM

To:

1. The District Collector, O/o.the District Collector, Dindigul.
2. The Revenue Divisional Officer, O/o.the Revenue Divisional Officer, Dindigul.
3. The Tahsildar, O/o.the Tahsildar, Natham, Dindigul.
4. The Superintendent of Police, O/o.the Superintendent of Police, Dindigul.
5. The Inspector of Police, Natham police station, Natham, Dindigul District.



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