



W.P.No.11541 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.04.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.No.11541 of 2023**  
**and WMP No.11436 of 2023**

Mr.Selvam

... Petitioner

-Vs-

1.The Assistant Commissioner  
Hindu Religious Charitable and  
Endowment Department  
Namakkal.

2.The Executive Officer  
Hindu Religious Charitable and  
Endowment Department  
Rasipuram  
Namakkal.

3.The Inspector of Police  
Namagiripet Police Station  
Namakkal District.

4.The Tahsildar  
Rasipuram, Namakkal.

5.S.Revathy

.. Respondents



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Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 4<sup>th</sup> respondent dated 11.04.2023 in Na.Ka.3124/2023/A2 and quash the same and consequently direct 2<sup>nd</sup> and 4<sup>th</sup> respondents not to interfere with the right of the Nattu Gounder Community members over the Arulmigu Mariamman Temple, Thoppapatti, Namakkal District as declared in the judgment and decree dated 21.11.2003 in OS.69 of 1999 on the file of District Munsif Court, Rasipuram.

For Petitioner      Mr.R.Nalliyappan

For Respondents      Mr.N.R.R.Arun Natarajan  
Special Government Pleader  
for R1, R2

Mr.C.Selvaraj  
Additional Government Pleader  
for R3, R4

### **ORDER**

This writ petition has been filed challenging the impugned proceedings of the fourth respondent dated 11.04.2023 and the petitioner has also sought for a consequential direction to the second and fourth respondents not to interfere with the rights of the Nattu Gounder Community people over the Arulmigu Mariamman Temple, Thoppapatti, Namakkal District as declared in the judgment and decree dated 21.11.2003 made in O.S.No.69 of 1999, on the file of District Munsif Court, Rasipuram.



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2.Heard Mr.R.Nalliyappan, learned counsel for the petitioner, Mr.N.R.R.Arun Natarajan learned Special Government Pleader for R1, R2, and Mr.C.Selvaraj, learned Additional Government Pleader for R3 and R4.

3.The case of the petitioner is that Arulmigu Mariamman Temple was founded and managed by the Kongu Nattu Vellala Gounder Community of Thoppapatty Village, Rasipuram Taluk. In the year 1999, some persons belonging to Devendra Kula Vellalar Community, interfered with the administration of the Temple. Hence, a suit was filed in OS.No.69/1999, by persons belonging to the Kongu Nattu Vellala Gounder Community, seeking for the relief of declaration and other consequential reliefs. The suit was decreed in the following terms :

1. தாவா அருள்மிகு மாரியம்மன் கோயில் வாதிகள் சமுதாயம் மட்டுமே திருவிழா நடத்த உரிமையுடைவார்கள் என்று விளம்புகை செய்தும்.
2. வாதிகள் சமுதாயம் தாவா மாரியம்மன் கோயில் திருவிழா நடத்துவதையும், நிர்வாகம் செய்வதையும் 1 முதலங் 5 பிரதிவாதிகளோ, ஆவரது சமுதாயமோ எந்தவகையிலும் இடைஞ்சல் செய்யக்கூடாது என்று நிரந்தர உறுத்துக்கட்டளை பிறப்பித்து உத்தரவிடப்படுகிறது.

4.In view of the above decree, the petitioner claims that the community people will have the absolute right to administer and manage the concerned Temple and the same cannot be interfered by the persons belonging to the Devendra Kula Vellalar Community.



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5.A writ petition came to be filed in WP.No.25049 of 2017, by a person belong to the Scheduled Caste Community on the ground that she was never allowed to participate in the pooja that was conducted in the Temple. This Court after hearing both sides was pleased to pass the following order dated 16.02.2023:

*2. The case of the petitioner is that the subject Mariamman temple in the Village is under the Control of Hindu Religious Endowments and Charitable Department. The petitioner belong to Schedule community and she was never allowed to participate in the pooja. Therefore, she is seeking a direction to allow the petitioner and her community people to conduct pongal festival in the temple.*

*3. The learned counsel appearing for the petitioner submitted that the temple is under the control of Hindu Religious Endowment and Charitable Department and she had been denied entry into the temple and conduct the festival.*

*4. The Special Government Pleader appearing for the respondents 1 to 3, on instructions, submitted that the temple is under the control of HR&CE Department. However, the temple is managed by the Gounder community. He further submitted that a declaratory suit has also been filed by them and the right to perform pooja and pongal festival has already been crystallized in the Civil suit wherein the HR&CE Department is also a party. It is his further contention that entry into the temple and worshipping in the temple is not prohibited. However, festival right is declared in favour of the Gounder community. Hence,*



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*he submitted that there is no prohibition for the petitioner to enter into the temple and to do worship.*

*5. The learned counsel appearing for the private respondent submitted that a suit in O.S.No.69 of 1999 has been filed for declaratory relief. He further submitted that the land has been purchased by their community by contribution and their right has also been declared in the Civil Court.*

*6. In reply the learned counsel appearing for the petitioner submitted that it is suffice if the petitioner is allowed to enter the temple and do worship.*

*7. In such view of the matter, the respondents are directed to permit the petitioner to enter into the temple and to do worship. However, she cannot claim any right to do any customary pooja, which is declared in favour of the fourth respondent.*

6.In view of the above order, a direction was given to the HR & CE Department to allow everyone to enter into the Temple and to do worship, further it was made clear that the same will not give any right to persons belonging to other community to do any customary pooja, which was already declared in favour of the persons belong to the Kongu Nattu Vellala Gounder.

7.A peace committee meeting was called and the fourth respondent after hearing both sides took the following decisions.



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1. தொப்பப்பட்டி அருள்மிகு ஸ்ரீமாரியம்மன் கோவிலில் நடைபெறும் ஒருகால பூஜையினை பொது மக்களின் நலன் கருதி தினசரி முற்பகல் 10.00 மணி முதல் 11.00 மணிக்குள் தவறாமல் நடத்தப்பட வேண்டும் என முடிவு செய்யப்பட்டது.

2.ஒரு கால பூஜை நடைபெறும் சமயத்தில் தேவேந்திர குல வேளாளர் மக்கள் வழிபாடு செய்ய வருவதை சென்னை உயர்நீதிமன்ற வழக்கு எண். W.P.25049/2017 வழக்கின் தீர்ப்பு நாள்.16.2.023-இன் படி எவரும் தடுக்கக்கூடாது.

3.ஒரு கால பூஜை நடைபெறும் சமயத்தில் தேவேந்திர குல வேளாளர் மக்கள் வழிபாடு செய்ய வரும் போது பூஜைப் பொருட்களான தேங்காய், பழம், பூ வெற்றிலைப் பாக்கு, குற்பூரம் ஆகிய பொருட்களை மட்டும் கொண்டு வந்து வழிபாடு செய்யலாம். இவற்றைத் தவிர பொங்கல் வைப்பதோ, மாவிளக்கு கொண்டு வருவதோ, கிடா, கோழி, சேவல் வெட்டுவதோ, பந்தல் அமைப்பதோ, திருவிழா நடத்துவதோ போன்ற எந்த செயல்களுக்கும் அனுமதி இல்லை.

4.ஒரு கால பூஜை நடைபெறும் சமயத்தில் கோவில் பூசாரியை எவரும் மிரட்டுவதோ, நிர்பந்திக்கவோ கூடாது.

5.கோவிலில் மிகவும் சிதிலமடைந்த நிலையில் உள்ளதால் பொது மக்கள் உரிய பாதுகாப்புடன் வழிபாடு மேற்கொள்ள தெரிவிக்கப்படுகிறது.

6.மேற்கொண்ட முடிவுகளில் எவருக்கோனும் உடன்பாடு இல்லையெனில், இந்து சமய அறநிலையத் துறையின் இணை ஆணையர், நீதிமன்றத்தை அனுகியோ, ஆல்லது உரிமையியல் நீதிமன்றத்தை அனுகிறோ பரிகாரம் தேடிக்கொள்ளலாம் எனவும் தெரிவிக்கப்படுகிறது.

7.கோவில் வழிபாடு செய்வது தொடர்பாக எந்தவொரு சட்டம் ஒழுங்கு பிரச்சனையிலும் எவரும் ஈடுபடக் கூடாது என்றும் அவ்வாறு ஈடுபட்டால் வருவாய்த்துறை மற்றும் காவல் துறை எடுக்கும் நடவடிக்கைகளுக்கு அணைவரும் கட்டுப்பட வேண்டும் என முடிவு செய்யப்படுகிறது.

8.The grievance of the petitioner was focused on Clause No.3 of the decision taken in



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the peace committee meeting. According to the petitioner, the persons belonging to the Devendra Kula Vellalar Community have now been permitted to bring the pooja articles like flowers, fruits, coconut and camphor. According to the petitioner, if this is allowed, it indirectly amounts to the other community people given the right to perform special poojas. Therefore, it is contended by the petitioner that it goes against the decree passed by the Civil Court.

9.The learned Special Government Pleader appearing on behalf of the Department submitted that this Court had allowed the entry and worship in the Temple and while worshipping, flowers, fruits and coconuts are offered to the God and the flower is put on the idol and other things are distributed to devotees, who come to the Temple. Therefore, the learned Special Government Pleader submitted that there is no question of giving any right to conduct special poojas by persons belonging to Devendra Kula Vellalar Community. The learned Special Government Pleader once again read Clause 3 of the decision taken in the peace committee meeting, wherein there is a specific restriction on performing certain rights which will amount to a special pooja. Therefore, it was contended that there is absolutely no ground to interfere with the decision taken by the 4<sup>th</sup> respondent.

10.In the considered view of this Court, worshipping the god also includes within itself offering flowers, fruits, coconut and camphor and this is traditionally followed in all the Temples. By such offering, it cannot be contended that a right is being vested on the person, who makes such offer. On carefully going through Clause 3 extracted supra, it is



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seen that the 4<sup>th</sup> respondent has consciously restrained the persons belonging to Devendra Kula Vellalar Community from doing certain rites, which will tantamount to giving them a special right and which will run contrary to the decree that has been passed by the Civil Court. Therefore, the decision that was taken by the fourth respondent is clearly backed by application of mind. It is made very clear that offering of flowers, fruits, coconut, camphor and betel leaf and betel nut does not confer any special right on the persons belonging to Devendra Kula Vellalar Community. At the best, it can only be taken to be part of worshiping the god by a devotee. Except giving this clarity, no further orders can be passed in this writ petition.

11.This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

13.04.2023

KP

Internet : Yes/No

Index : Yes/No

Speaking Order:Yes/No

Neutral Citation :Yes/No



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To

- 1.The Assistant Commissioner  
Hindu Religious Charitable and  
Endowment Department  
Namakkal.
- 2.The Executive Officer  
Hindu Religious Charitable and  
Endowment Department  
Rasipuram, Namakkal.
- 3.The Inspector of Police  
Namagiripet Police Station  
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Rasipuram, Namakkal.

**N.ANAND VENKATESH, J.**



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