



W.A.(MD)No.1239 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.08.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

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T.N.S.Murugadoss Theerthapathi,
Hereditary Trustee,
Arulmigu Sorimuthu Ayyanar Temple,
Zamin Singampatti,
AmbaSamudram Taluk,
Tirunelveli District

...Appellant

/Vs./

1.The District Collector,
Kokkirakulam,
Tirunelveli District.

2.The Principal Chief Conservator of Forest,
No.1, Jeens Road,
Saidapet,
Chennai – 15.

3.The Field Director and Chief Conservator of Forest,
K.M.T.R., N.G.O.'A' Colony,
Tirunelveli – 7.

4.The Deputy Director,
K.M.T.R., Ambasamudram,
Tirunelveli District.

...Respondents

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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 25.07.2014 passed in W.P.(MD)No.11560 of 2014 on the file of this Court.

For Appellant : Mr.Vignesh
for Mr.A.Arumugam
For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

The petitioner is the appellant in the Writ Appeal. He was, at the time of filing of Writ Petition and Writ Appeal, the Hereditary Trustee of Arulmighu Sorimuthu Iyyanar Temple, Ambasamudram Taluk, Tirunelveli District (temple/temple in question). We are given to understand that he continues in that position even today.

2.The prayer in the Writ Petition was for a Mandamus forbearing the respondents from interfering with the right of the devotees to offer worship and do poojas during Aadi Amavasai festival in



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Bhanatheertham falls (in short 'falls'/falls in question) without any hindrance.

3.The temple is situated in the Western Ghats proximate to the falls. The petitioner, till 1952, enjoyed the status of a Crown Ruler and was in possession and enjoyment of the range of hills, in which the temple and falls are situated. With the passing of the Abolition of Zamindari and Conversion into Ryotwari Act, 1948 (Act 26 of 1948), this privilege ceased.

4.While the temple and falls enjoy great antiquity as well as spiritual and religious significance, such significance is enhanced on Aadi Amavasai day. Thousands of devotees come to the falls and temple in connection with rituals to propitiate the manes.

5.The Writ Petitioner averred that a road had been laid out many decades ago from zero point of Manimuthar Reservoir to the falls. However, post acquisition and designation as a Tiger Reserve, the road has not been maintained. He alleged that this has caused great hardship to the devotees who visit the temple, interfering with their rights to worship and right to pilgrimage guaranteed under Articles 19, 25 and 26



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of Constitution of India.

6.The Writ Court records that, that area, where the temple and falls are located in Kalakad-Mundanthurai Sanctuary ('area in question') had been declared as a Tiger Habitat under G.O.Ms.No.145, Environment and Forests (FR.5) Department, dated 28.12.2007. It is, thus, a protected reserve by virtue of Section 38(v) of the Wildlife Protection Act, 1972, amended in 2006.

7.The State had, thus, urged that the Writ Petitioner could claim no vested right to free access to the area for any purpose. However, bearing in mind the antiquity of the temple and falls, the importance of rituals and festivals conducted there and the sentiment of the worships, a balance must be struck by the State.

8.The key is control, such that the authorities are in a position to regulate access and maintain the sanctity of the area, while at the same time provide some measure of safe and secure access to the devotees.

9.The area in question has been admittedly notified under Sections 4 and 6 of the Tamil Nadu Forest Act, 1882. In fact, access to the falls is wholly prohibited under the provisions of the aforesaid



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enactments, as the area falls within the critical tiger habitat comprising 895 sq.mets in Kalakad-Mundanthurai Sanctuary. The authorities would be well within their power to control access absolutely. The Tiger Reserve is rich in biodiversity and home to wildlife as well as many endangered flora and fauna. Undoubtedly, tourism must be controlled in such an area.

10.Before us, Mr.Vignesh, learned Counsel for the Writ Petitioner would reiterate the submissions already made and recorded by the Writ Court and Mr.S.Saji Bino, learned Special Government Pleader appearing for the respondents would, in addition to reiterating what has been said earlier, submit that over the years, stanch devotees had indeed been visiting both the temple and falls including in the month of Adi, specifically on Amasavai.

11.Though restrictions are in place, such restrictions are reasonable and as permitted by the applicable rules. The petitioner does not very seriously dispute this position. We are of the considered view that the position as on date appears to have struck the right note between the rights guaranteed to devotees under Article 25 of the Constitution and



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special rights that must be extended to ecologically and environmentally sensitive areas, such as the area between Babanasam and Mundanthurai Forest range, where the temple and falls are located.

12.As held by the Writ Court that dismissed the Writ Petition, the rights guaranteed under Article 25 of Constitution of freedom of religion are not absolute, but subject to public order, morality, health and other provisions of Part-III of the Constitution. The justification put forth by the respondent for not permitting unhindered access to the temple and falls is found acceptable.

13.The Writ Court also noted that the Notifications and Government Orders passed over the years designating the area as a Tiger Reserve, are based on scientific data and have not been challenged by the petitioner or any other person/group thus far. In such circumstances, the assurance of the State that the access to the temple and the falls would be permitted, but with imposition of necessary restrictions, is found appropriate.

14.We reiterate that the prescription of the special enactments is paramount and restrictions to ensure safety and security of pilgrims



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must continue. All measures must be taken to preserve the environment and accord protection to the wild life population. This Writ Appeal is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]
22.08.2023

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