

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.5.2015.

CORAM

THE HON'BLE MR.JUSTICE V.DHANAPALAN

W.P.No.15030 of 2015

P.Erannan

Petitioner

vs.

- 1 The District Magistrate &
District Collector Erode District
Erode.
- 2 The District Superintendent
of Police
Erode District Erode.
- 3 The Tahsildar
Anthiyur Taluk Erode District 638 501.
- 4 The Sub Inspector of Police
Burgur Police Station
Anthiyur Taluk
Erode District 638 501.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st Respondent to pass appropriate orders based on the report of the 3rd Respondent submitted in Na.Ka.No.2589/2015/A4 dated 27.04.2015 recommending to permit the petitioners group to conduct the Kundam Festival and also the daily poojas in the Padahalli Madheshwara Temple in Solaganai Forest Settlement Area in Burgur "A" Village in Anthiyur Taluk, Erode District with adequate Police protection within a time frame fixed by this court.

For Petitioner : Mr.S.Sathia Chandran
For Respondents : Mr.R.Vijayakumar, AGP

ORDER

Heard Mr.Sathia Chandran, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

2. The prayer of the petitioner is to direct the first respondent to pass appropriate orders based on the report of the 3rd Respondent submitted in Na.Ka.No.2589/2015/A4 dated 27.04.2015 recommending to permit the petitioners group to conduct the Kundam Festival and also the daily poojas in the Padahalli Madheshwara Temple in Solaganai Forest Settlement Area in Burgur "A" Village in Anthiyur Taluk, Erode District with adequate Police protection within a time frame fixed by this court.

3. The case of the petitioner as pleaded before this court reads thus:-

The petitioner belongs to Shalogar community which is a Scheduled Tribe and from time immemorial, his ancestors had lived in forests and they were permitted to worship in the Padahalli Madheshwara Temple, a 700 years old one. Around 70 years ago, a set of people hailing from Coonoor Hills in Karnataka State got

migrated and settled in Chinna Solaganai area and though their customary deity was Mangammal of Kathirimalai, the petitioner and his men permitted them to offer worship and participate in the petition mentioned temple, but, later on, on the strength of their continuous participation, they started to stake claim. As the disputes continued, the petitioner his men approached the Principal District Munsif Court, Bhavani in O.S.No.357 of 2011 seeking a permanent injunction against one Onnan and others of the abovesaid migrants from interfering with their rights. As there was no interim order in the suit, it resulted in law and order problem. Therefore, the Tahsildar and the Executive Magistrate of Bhavani by his proceedings dated 12.4.2012, made some arrangements for conduct of poojas in the petition mentioned temple on some turn basis between the two groups. Even thereafter, with regard to maintenance of the accounts of the temple, there had been some disputes between the groups which made the petitioner and his group to make several representations to the authorities. Even thereafter, the group headed by the said Onnan did not submit the accounts or cash or the temple properties and even refused to sign the peace committee proceedings. Whiles, the third respondent, by his proceedings dated 27.4.2015 submitted a detailed report to the first

respondent in the matter and concluded that the petitioner's group shall be permitted to conduct the Kundam Festival and also the daily poojas in the said temple with police protection and also to initiate criminal action against the said Onnan and his group, in case they did not hand over the temple properties to the Village Administrative Officer. Thereafter, the petitioner's group moved the first respondent with further representations for conducting the festival, but, the first respondent has not yet passed any orders on the same. Hence, the present writ petition has been filed.

4. Heard the learned counsel appearing for the petitioner and perused the material documents.

5. The sole reliance made by the petitioner is the report of the Revenue Tahsildar dated 27.4.2015 submitted to the competent authority viz., the District Collector which reads thus:-

"From

Mr. G. RATHINAKUMAR
The Revenue Tahsildar
Anthiyur Taluk
To

DISTRICT COLLECTOR
Erode.

Na.Ka.2589/2015/A4 dated 27.04.2015

Sir,

Sub.: law and order-Anthiyur Taluk-Burgur "A"
Village-Solaganai Forest Settlement Padahalli
Matheshwara Thirukoil locked on 13.04.2015- Submitting
of detailed report on the appeal made to the District
Collector by Erannan requesting its opening to conduct
Kundam Festival-Reg.

Ref: 1. Proceedings in Na.Ka.100/2011/B3 dated
12.04.2012 of Tahsildar, Bhavani

2. Petition dated 30.03.2015 submitted by Putta
Solagan and Erannan to the Tahsildar, Anthiyur.

3. Proceedings in Na.Ka.2589/2015/A4 dated
07.04.2015 of the Tahsildar, Anthiyur.

4. Petition dated 08.04.2015 submitted by Nagan and
Pandhaiyan to the Tahsildar, Anthiyur.

5. Appeal petition dated 20.04.2015 made by
Erannan and others to the District Collector, Erode.

6. Appeal petition dated 21.04.2015 made by
Erannan and others to the District Superintendent of
Police, Erode.

I herewith submit the copies of the letters cited in the
reference. I hereby submit my detailed report on the
Appeal Petition submitted by Erannan and Others to the
District Collector on 21.04.2015 cited in Ref. 5 above
with regard to the above subject.

2. In the Petition in the Ref.3 above Putta Solagan and Erannan etc. had submitted a petition dated 30.03.2015 addressed to the Tahsildar, Anthiyur and the Sub Inspector of Police, Burgur stating that since their opponents Onnan, Utchiraan etc. are indulging in attempts to murder with regard to the conduct of Kundam Festival at Burgur "A" Village-Solaganai Forest Settlement Padahalli Matheswara Thirukoil from 14.04.2015 to 21.04.2015, we have requested for making arrangements to conduct the festival on behalf of the Tahsildar.

3. When a serious enquiry was conducted, it is found that the Kundam Festival in the said Thirukoil was being conducted for a number of years in the month of Chithirai and as there was difference of opinion among the temple Poojaries, the Tahsildar Bhavani conducted a peace meeting on 25.07.2011 and arrived at the resolutions as contained in his order cited in Ref.1 above. In pursuance of the said peace Committee resolution, the petitioners approached the Tahsildar, Anthiyur and the

Sub Inspector of Police, Burgur to conduct the Chithirai Festival of 2015. To conduct the said festival, a peace meeting was conducted on 07.04.2015 in the office of the Tahsildar, Anthiyur. I submit the following with regard to the facts emerged in the said meeting and the potential reasons for a law and order problem.

4. For over a few hundred years, the petitioners' (in items 6 & 7 cited in Reference) ancestors' tomb and the worship place situate in Burgur Village in Solaganai Forest Settlement under the name of Padahalli Matheshwara Thirukoil has been the ancestral property of Solaganai Tribal People. It is customary that the petitioners have been conducting Kundam Festival in the month of Chithirai every year. From the enquiry it is revealed that whileso, a few years ago, the opponents (to the petitioners) with money and muscle power grabbed the place of worship by means of violence. The said opponents Onnan, Utchiraan etc., have got migrated from Ponnatchi Hill in Karnataka.

5. Since the unruly behavior of the opponents escalated,

the Tahsildar of Bhavani with the aid of the Deputy Superintendent of Police, Bhavani conducted a peace committee meeting and passed orders as contained in Ref. 1 above. The essence of the same is as follows:

It has been directed: that, on the 1st of day of Chithirai, the accounts of the temple shall be verified in the presence of the Village Administrative Officer of Burgur and the Sub-Inspector of Police, Burgur and approval shall be obtained from the Tahsildar of Bhavani ;

That, Rangan and others (the opponents 2, 10 & 11) shall conduct poojas for three months, Thai, Maasi and Panguni and from the month of Aadi to Maargazhi, the opponents 1 to 9 shall conduct poojas;

That, the above poojas shall be conducted only by the concerned persons and no proxy shall be allowed and that, the remaining cash after the expenses shall be deposited into a Bank Account.

3. As per the order cited in reference 1 above, the petitioners have handed over a sum of Rs.51,000/- being the remaining cash in hand collected during their turn of

poojas, to the Village Administrative Officer.

4. As the opponents had been indulging in unruly behavior and violence in order to obstruct the implementation of the order passed in 2012, the petitioners 1 to 3 have filed O.S.No.357/2011 before the Principal District Munsif Court, Bhavani seeking to confirm the order cited in Ref.1 above.

5. The petitioners in serial Nos. 4 and 5 are close relatives of opponents Rangan and others. Since the said Rangan did not allow this petitioners to conduct the poojas and as they were not aware of the peace committee meeting cited in the order in Ref. 1 above, they had approached the Court claiming their right for possession.

6. It was the ancestors of the petitioners 6 and 7 who had handed over the above said place of worship to the other petitioners. Since the opponents have grabbed the same by means of violence and the opponents have snatched away their right in the peace committee meeting, they have filed an I.A.No.28 of 2015 in the

District Munsif Court, Bhavani.

The civil cases referred in the paragraphs above have not been an obstruction to the order of the Tahsildar cited in Ref. No.1 above.

7. From the discrete enquiry, it is revealed that in order to avoid compliance of the order in Reference 1 above, whereby the balance of the cash, Jewells and other properties shall be accounted for in the Chithirai Festival conducted every year and the petitioners were insisting on the same, the opponents have indulged in attempts to murder to obstruct the proposed conduct of Chithirai festival from 14.04.2015 to 21.04.2015.

8. In order to resolve the unruly behavior of the opponents by conciliation, an order cited in ref.3 above was made. The opponents participated in the pace committee meeting but refuse to signed the proceedings. The lock with which the opponents closed the temple was removed and on behalf of the Tahsildar of Anthiyur on 13.04.2015 the temple was locked and the key has handed over to the Burgur Police Station.

9. The opponents are causing serious obstruction and injury to the rights of the petitioners to conduct Chithirai Festival every year with an intention to prevent them.

10. It is revealed that the opponents have misappropriated the temple funds for several years and have also misappropriated and illegally sold the Gold and Silver Jewells worth Rs.20 Lakhs as also the other properties belonging to the Temple.

As the opponents Onnan, Uthchiran etc did not come forward for an amicable settlement through the peace committee meeting, they were given 2 days time to hand over all the properties of the temple including the cash to the Village Administrative Officer. A copy of this Order was also pasted at a conspicuous place in the concerned place for public view and for the opponents' knowledge. As even after this, the opponents Onnan, Utchiran etc. did not turn up for settling the issue with intent to prevent the conduct of the Kundam Festival from 14.04.2015 to 21.04.2015, the locked put up by the opponents Rangan, Uthciran, Onnan was removed as

they refuse to remove it and on 13.04.2015 the concerned place was taken possession on behalf of the Tahsildar and locked up with a new lock and the key has been handed over to the Burgur Police Station.

What is insisted on by the petitioners is that it was their ancestors' tomb and the Padahalli Matheshwara Thirukoil was established by their ancestors. Further, the opponents, who have no right to conduct poojas, have to hand over the precious Jewells and cash in their possession to the Village Administrative Officer till a committee is constituted to administer it. Only since the demands of these persons were rightful, the order cited in Ref.3 above had been passed. The petitioners in the Appeal Petition have also applied to the District Superintendent of Police, Erode, cited in Ref.6 above to implement the same.

I humbly submit that in order to effectively maintain law and order, the conduct of Kundam Festival as requested by the petitioners may be conducted with the assistance of the police and for the conduct of daily poojas by them,

and in case, if the opponents did not volunteer to hand over the precious properties in their possession on their own to the Village Administrative Officer, if necessary, the District Superintendent of Police may be requested to file a criminal case against the opponents. I submit that herewith, I am enclosing the copies of the documents cited in the reference above.

Sd/-

The Revenue Tahsildar
Anthiyur.

Copy to: The Sub-Collector, Gobichettipalayam
The Inspector of Police, Anthiyur
The Sub-Inspector of Police, Burgur
Petitioners

"

6. The report as extracted above would reveal the attending circumstances prevailing in the area and also various reasons for conduct of the festival and ultimately, the Revenue Tahsildar took a decision to recommend for conducting the festival and accordingly, the report has been sent to the District Collector, Erode, the first respondent herein who is competent to take a decision and pass appropriate orders.

7. Upon hearing the learned counsel appearing for the petitioner

and in the light of the abovesaid position, I am of the considered opinion that the first respondent is bound to take a decision and therefore, the District Collector, Erode is directed to take a decision based on the report of the third respondent and pass appropriate orders according permission for conduct of the festival.

8. The writ petition is disposed of accordingly. No costs.

28.5.2015.

Index: Yes.
Internet: Yes.
ssk.

To

- 1 The District Magistrate &
District Collector Erode District
Erode.
- 2 The District Superintendent
of Police
Erode District Erode.
- 3 The Tahsildar
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- 4 The Sub Inspector of Police
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V.DHANAPALAN, J.

Ssk.

W.P.No.15030 of 2015

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