

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-03-2015

CORAM :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

WP No. 18923 of 2014

Salem Gugai Kannada Sainegar

Samuga Sangam

rep. by its Secretary S.K. Balakrishnan

Karungalpatti

Salem - 6

... Petitioner

Versus

1. Revenue Divisional Officer (R.D.O.)

R.D.O. Office

Salem

2. The Assistant Commissioner

Hindu Religious & Charitable Endowments Department

Salem - 1

3. A. Sithan

4. K. Gopalakrishnan

5. A.B. Arumugam

6. K. Balakrishnan

... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorari to call for the records relating to the proceedings of the first respondent dated 11.07.2014 made in Na.Ka.No.8079/2013/A2, quash the same.

For Petitioner : Mr. T.S. Vijayaraghavan

For Respondents : Mr. S. Gunasekaran

Government Advocate for RR1 and 2

Mr. S. Thirumavalavan for RR3 to 6

ORDER

Heard the learned counsel for the parties.

2. The petitioner has come forward with this writ petition challenging the preliminary order passed by the first respondent in his proceedings dated 11.07.2014 as contemplated under Section 107 of Cr.P.C.

3. It is seen from the records that the impugned proceedings is not a final order passed by the first respondent but it is a notice calling upon the petitioner to produce certain documents and until then, there was a restraint order passed by the first respondent not to conduct any ritual in the temple and to admit any new members in the Sangam.

4. According to the counsel for the petitioner, the first respondent has passed the impugned order without considering any of the documents furnished by the petitioner along with his representation dated 23.06.2014. A copy of the representation dated 23.06.2014 is filed in the typed set of papers from which it is seen that along with the representation, the application dated 21.03.2013, bye laws of the Sangam, copy of the proceedings of the Registrar, admission form and deletion list have been enclosed. These documents, according to the petitioner, have not been considered by the first respondent before passing the impugned proceedings, as a result of which the entire activities of the Sangam has come to a stand still.

5. I have perused the counter affidavits filed by the first respondent as also the counter affidavit of the contesting respondents 3 to 6 in which they have justified the proceedings initiated by the first respondent.

6. It is seen from the records that the petitioner, along with his representation dated 23.06.2014, has furnished the documents which are mentioned above. It is not in dispute that the first respondent is vested with the powers under Section 104 of Cr.P.C. and has jurisdiction to prevent any breach of law and order. However, the first respondent cannot usurp such powers to decide and adjudicate the civil rights of the parties. Therefore, without going into the validity or otherwise of the impugned order of the first respondent, the first respondent is directed to go through the documents submitted by the petitioner, conduct an enquiry, afford opportunity of hearing to the petitioner and the respondents 3 to 6 and thereafter, pass an order on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsh

To

1. Revenue Divisional Officer (R.D.O.)
R.D.O. Office
Salem
2. The Assistant Commissioner
Hindu Religious & Charitable Endowments Department
Salem - 1

+1cc to Mr.S.Thirumavalavan, Advocate, S.R.No.16819
+1cc to Mr.T.S.Vijayaraghavan, Advocate, S.R.No.16619
+2cc's to the Government Pleader, S.R.No.16656 & 16890

WP No. 18923 of 2014

SKV(CO)
CA(31/03/2015)



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