

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.8794/2015 AND MP.No.1/2015

R.Sambath

... Petitioner

Versus

- 1.The District Collector,
Salem.
2. The Assistant Commissioner,
HR & CE, Fort, Salem-1.
3. The Revenue Divisional Officer,
Salem.
4. The Thasildar,
Valapadi Taluk,
Valapadi.
5. The Inspector of Police,
Valapadi Police Station,
Salem District.
6. V.Rajendran
7. Mannan
8. Bangaru
9. Raji
- 10.Konda Boyan

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents 1 to 4 forbearing from interfering from the administration of the Arulmighu Sri Kaliannan Temple at Mettupatti Village, Valapadi Taluk, Salem District, in any peace committee meeting held by them.

For Petitioner : Mr.R.Srinivas

For Respondent : Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader for R1 to R5

ORDER

Heard Mr.R.Srinivas, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepting notice for the respondents 1 to 5 and with their consent, the writ petition is disposed of at the admission stage itself and the notice to the respondents 6 to 10 is dispensed with.

2.The petitioner has filed this writ petition seeking for a direction upon the respondents 1 to 4. not to interfere in the administration of the Arulmighu Sri Kaliyamman Temple at Mettupatti Village, Valapadi Taluk, Salem District, in any peace committee meeting held by them.

3.According to the petitioner, in his village, there is a temple called Arulmighu Sri Kaliyamman temple, which according to him, is a century old and belongs to Boyan Community who are the natives of the village. During the year 2013, when the predecessors of the petitioner wanted to celebrate the festival during the month of February of the said year, certain persons have objected to the same and there were law and order problems and those persons had filed a writ petition before this Court in WP.No.6254/2013. It is stated that the said writ petition was disposed of on 16.09.2013.

4.Learned Counsel for the petitioner would state that the said writ petition was dismissed as withdrawn. However, a copy of the order has not been annexed and from the information furnished in the Memo given by the Information Centre attached to this Court, it is seen that WP.No.6254/2013 was disposed of on 16.09.2013. Thereafter, since there were problems in celebrating the festival, the petitioner approached this Court by filing WP.No.28171/2013 and the said writ petition was admitted and notice was ordered and it is stated that the writ petition is pending. For the current year, the petitioner, once again, seeks for celebration of the festival and in this regard, the 4th respondent has issued a notice on 04.02.2014 in exercise of his powers conferred u/s.107 Cr.P.C.

5.It is seen that the notice has been issued at the instance of the complaint lodged by the respondents 6 to 10 who are the "A" Party in the proceedings. A copy of the notice reveals that the petitioner is one among the persons who have been shown as "B" Party. The petitioner would state that they are ready to cooperate with the enquiry to be conducted by the 4th respondent u/s.107 Cr.P.C., so as to ensure that there is no breach of peace while conducting the festival. The petitioner's apprehension is that under the guise of conducting enquiry, to prevent the breach of peace, the 4th respondent should not interfere with the customary right or the rights of the administration of the temple or any other rights, which according to the petitioner, are exclusive to a particular community. The notice dated 04.02.2014 issued by the 4th respondent is u/s/107 Cr.P.C. and the notice does not, prima facie, reveal that the 4th respondent proposes to interfere in the administration of the temple or in any of the customary rights of the temple or the respondents 6 to 10.

6.In the light of the fact that the petitioner is ready and willing to cooperate with the enquiry to be conducted u/s.107 Cr.P.C., so as to prevent breach of peace, there will be a direction to the 4th respondent to proceed further with the enquiry, pursuant to the notice dated 04.02.2014, after affording full and

effective opportunity to both the parties, viz, A party and B party, and after hearing all the persons in person in the presence of the Police Authorities. It is made clear that the scope of the enquiry by the 4th respondent shall be restricted to the powers conferred u/s.107 Cr.P.C., without any transgression into the customary practices or administration of the temple which has to be agitated by both the parties before the appropriate Forum.

7.The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The District Collector,
Salem.
2. The Assistant Commissioner,
HR & CE, Fort, Salem-1.
3. The Revenue Divisional Officer,
Salem.
4. The Thasildar,
Valapadi Taluk,
Valapadi.
5. The Inspector of Police,
Valapadi Police Station,
Salem District.

+1 cc to Government Pleader, SR.17619.

+1 cc to Ms.R.Srinivas, Advocate, SR.17418.

gj(co)
krd 8/4

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WP.No.8794/2015

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