

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.14191 of 2016
and
W.M.P.No.12410 of 2016

P.Muthusamy

... Petitioner

Vs.

1. The District Collector,
Namakkal,
Namakkal District.

2. The Revenue Divisional Officer,
Namakkal,
Namakkal District.

3. The Superintendent of Police,
Namakkal,
Namakkal District.

.... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to consider and pass orders on the representations of the petitioner, dated 10.03.2016 and 29.03.2016, for smooth administration and performance of daily poojas/yearly festival in Sri Mariamman Temple at Thandagoundanur, Vasanthapuram Village, Namakkal District, in line with the Court orders.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

The petitioner has come up with the present Writ Petition for a Mandamus, directing the respondents to consider and pass orders on the representations of the petitioner, dated 10.03.2016 and 29.03.2016, for smooth administration and

performance of daily poojas/yearly festival in Sri Mariamman Temple at Thandagoundanur, Vasanthapuram Village, Namakkal District, in line with the Court orders.

2. The brief facts, which are necessary to dispose of this Writ Petition, are as follows:-

(i) It is the case of the petitioner that nearly 200 years ago, his ancestors and their community people, have constructed Sri Mariamman Kovil at Thandagoundanur, Vasanthapuram Village. It is a Village Temple and the same was exclusively managed by the Gounder community people. The Boyar community people have established other Temples, such as, Chellandiamman Koil, Periyasamy Koil, Veeramathiamman Koil and Elumalaiamman Koil, and they have been worshipping and also administering these four Temples.

(ii) It is the further case of the petitioner that the Gounder community people spent 1 ½ lakhs in the year 1989 to renovate the Temple and to perform congregation. After the congregation, the Boyar community people filed a suit in O.S.No.291 of 1989 on the file of the learned District Munsif, Namakkal, on 21.04.1989, for declaration of their right to worship, perform poojas, conduct festivals and for permanent injunction, restraining their right to offer coconut and banana during their worship. The said suit was decreed in part by the judgment, dated 27.10.1994, whereby, the Boyar community people have been granted declaration that they are entitled to only worship, not to perform any pooja or to conduct any festivals. Against which, the Boyar community people filed an appeal in A.S.No.56 of 2002. The same was dismissed by the learned Additional District & Sessions Judge-cum-Chief Judicial Magistrate, Salem, on 19.08.2002.

(iii) Pending the suit in O.S.No.291 of 1989, Gounder community people filed O.S.No.121 of 1992 on the file of the learned Principal District Munsif Court, Namakkal, to declare that Sri Mariamman Temple belong to Gounder community people and for permanent injunction restraining the Boyar community people from interfering with the Gounder community people right to perform Temple festival and daily pooja. After contest, the said suit was decreed on 26.10.1994. The appeal filed by the Boyar community in A.S.No.2 of 1995 on the file of the learned Subordinate Judge, Namakkal, was dismissed on 02.04.1996.

(iv) Pending the above suits, the Boyar community people filed a suit in O.S.No.432 of 1992 on the file of the learned Additional District Munsif Court, Namakkal, on 27.04.1992, against the Gounder community people for declaration and permanent injunction. The said suit was dismissed on 02.11.1994.

(v) After the above Civil Court proceedings, one Selvaraj filed W.P.No.32216 of 2005 on the file of this Court, seeking police protection for worshipping the deity by offering pongal, coconut and fruits during the festival and other occasions. The said petition was opposed by the petitioner. The said Writ Petition was dismissed by this Court on 22.02.2007. On a Writ Appeal in W.A.No.637 of 2007 filed by the said Selvaraj, the order passed in the Writ Petition was confirmed by the Division Bench of this Court by judgment dated 18.04.2007.

(vi) Subsequently, the Gounder community people submitted a representation, dated 22.03.2007, requesting the respondents to give necessary protection for smooth functioning of the Temple festival. A peace keeping Committee meeting was held on 20.04.2007, in which, the representatives of Boyar community people undertook not to interfere with the performance of the Temple festivals. However, subsequently, Boyar community people had filed a suit in O.S.No.341 of 2007, dated 17.04.2007 on the file of the learned Principal District Munsif Court, Namakkal, against the petitioner and others. The said suit was dismissed on 19.11.2012. An application filed seeking to condone the delay in I.A.No.131 of 2013 in unnumbered A.S. was also dismissed on 14.12.2014.

(vii) The petitioner has submitted a petition, dated 05.06.2013, requesting the respondents to give necessary protection for the smooth running of the Temple festival. The Inspector of Police, Namakkal, registered a case in Crime No.602 of 2013 under Section 174 CrI.P.C. on 14.06.2013 and directed both the parties to execute a bond for Rs.5,000/-, with five sureties, keeping peace till the end of the Temple festival.

(viii) While so, the 2nd respondent had passed an order, dated 12.07.2013. The said order was challenged by the petitioner by filing a revision before this Court in CrI.R.C.No.968 of 2013. The said revision was allowed by this Court, by quashing the order dated 12.07.2013 .

(ix) The petitioner has submitted a representation to the 1st respondent, dated 06.02.2014, requesting to ensure protection for smooth performance of the Temple festival. The 1st respondent forwarded the representation to the 2nd respondent. The 1st respondent called the parties for enquiry on 12.03.2014, but, thereafter, no further action was taken.

(x) The petitioner has again submitted a representation dated 10.03.2016, requesting the 1st respondent to ensure protection for smooth administration and management of Sri Mariamman Temple, without the interference from the Boyar

community people. The petitioner has sent a reminder, dated 29.03.2016. However, till date, no order has been passed by the respondents. Therefore, the petitioner has filed the present petition for the above stated relief.

3. Mr.N.Manokaran, the learned counsel appearing for the petitioner, would submit that the police should provide adequate protection for implementation of the orders of the Civil Court and that police should not insist on specific Court direction to provide police protection. With regard to the said proposition, he relied on the judgment of this Court reported in 2014(2) CTC 695, Radhika Sri Hari & another vs. Commissioner of Police, Coimbatore City, Coimbatore.

4. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, who took notice for the respondents, leaves the matter to the discretion of this Court.

5. At this juncture, it is worthwhile to refer to the judgment of this Court reported in 2014(2) CTC 695, Radhika Sri Hari & another vs. Commissioner of Police, Coimbatore City, Coimbatore, relied on by the learned counsel for the petitioner, wherein, in paragraph No.7, it was held as follows:-

"7. In the aforesaid circumstances, this Court considers it appropriate to refer to Report of the Committee constituted by the Government in G.O.(3D) No.42, Home, dated 30.06.2008, towards review of the system of treating complaints relating to money and land matters and to suggest a legally acceptable methodology. The Report of such Committee touching upon several issues, was accepted by Government. Having done so, under G.O.Ms.No.1580, Home (Pol.VII) Department, dated 24.11.2008, the Director General of Police was required to circulate the Report along with the 14 Point Guidelines annexed to such Government Order to Police Officers/Stations for appropriate adherence. Under C.No.43/CRB/CSP/2008, dated 08.12.2008, the Commissioner of Police, Chennai Sub-Urban, has caused communications to all Deputy Commissioners, Assistant Commissioners and Inspector of Police for necessary action. Guideline 111 issued by the Committee reads as follows:-

"11. When Police Protection is sought for the implementation of a Civil Court Order, it should be given readily. Police should not insist on a specific Court direction to give Police Protection".

6. Having regard to above, irrespective of the submissions made on either side, without expressing any opinion on the merits of the case, this Court, directs the petitioner to give a fresh copy of the representation of the petitioner, dated 10.03.2016, enclosing a copy of this order, to the 2nd respondent/The Revenue Divisional Officer, Namakkal District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the 2nd respondent is directed to consider the representation of the petitioner, by affording an opportunity of personal hearing to the petitioner as well as necessary parties and pass appropriate orders, on merits and in the light of the judgment reported by this Court in 2014(2) CTC 695, Radhika Sri Hari & Another vs. Commissioner of Police, Coimbatore, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner. It is for the 2nd respondent to pass appropriate orders purely on merits and in the light of the judgment cited supra.

7. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Namakkal,
Namakkal District.
2. The Revenue Divisional Officer,
Namakkal,
Namakkal District.
3. The Superintendent of Police,
Namakkal,
Namakkal District.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.24387
+lcc to the Government Pleader, S.R.No.24213

W.P.No.14191 of 2016

CTK(CO)
CA(06/05/2016)