

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.20399 of 2016 and
W.M.P.Nos.17500 and 17501 of 2016

Thangavel

... Petitioner

Vs.

- 1.State of Tamil Nadu rep by
Executive Magistrate cum
Revenue Divisional Officer,
Namakkal District.
- 2.K.Saravanan
- 3.Tahsildar,
Senthamangalam Taluk.
- 4.Inspector of Police,
Puduchatram,
Namakkal District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of certiorarified mandamus calling for the records on the file of the 1st respondent made in Na.Ka.7382/2016/M dated 08.06.2016 and quash the same and consequently, forbear the respondents from anyway interfering with petitioner and petitioner community people namely people belong to Adi-dravidar community from entering, worshipping the Deity Arulmigu Mariamman and celebrating annual festival of Arulmigu Mariamman Koil situated at Thirumalaipatti village, Senthamangalam Taluk.

For Petitioner :Ms.Selvi George

For Respondents:Mr.R.Govindasamy,
Special Government Pleader (R1, R3 & R4)
Mr.K.Saravanan - party-in-person (R2)

O R D E R

The petitioner would state that he belongs to Scheduled Caste Community and a temple viz., Pazaya Mariamman Koil situated in S.No.258/2 at Thirumalaipatti Village,

Senthanmangalam Taluk and it is in existence for more than 100 years and people belonging to various communities viz., Adi-dravidar, Gounder (Konguvellarar), Nadar, Pillaimaar, Dobi (Washermen) used to go to the said temple for worship and to satisfy their religious and spiritual needs. The petitioner would further state that the annual temple festival is to be conducted by the people belonging to all the communities involving their representatives and it will be conducted in the month of April for a total period of 20 days and it will start with a function called Poochaatudal (Kambum naduthal) during the first week of April and necessary pooja will be conducted for the first 14 days and the deity will be celebrated for the last five days. The grievance expressed by the petitioner is that the people belonging to upper caste community viz., Gounder (Konguvellarar) were preventing the petitioner from participating and performing the festival and that the Revenue Divisional Officer, Namakkal District viz., the first respondent, vide proceedings dated 08.06.2016, has taken cognizance of ex parte civil Court decree dated 08.04.2011 made in O.S.No.376 of 2010 on the file of the Court of Additional District Munsif, Namakkal, accorded permission to conduct the festival by the upper caste community and therefore, came forward to file this writ petition challenging the legality of the said order.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned order dated 08.06.2016 passed by the first respondent and would submit that admittedly in the above said civil suit, the first respondent is not a party and therefore, he is not bound by the impugned order and without taking note of the fact that the people belonging to lower caste community like the petitioner are prevented from performing the festival, has passed an erroneous order directing the 4th respondent to provide police protection for conducting the temple festival and prays for interference.

3. The first respondent had filed the counter affidavit stating among other things that he has taken note of the civil Court decree passed in O.S.No.376 of 2010 by the Court of Additional District Munsif, Namakkal and also the conciliation talks within the parties on 03.12.2015 and at the request of one party, it was adjourned to 10.12.2015 and once again it was conducted on 17.12.2015. It is further stated by the first respondent that the second respondent has submitted a representation apprehending law and order problem with regard to the conduct of temple festival held on 10.12.2015 and as a follow up action, conciliation talks were once again held and it was adjourned. A final notice was issued to the "B" parties to produce the records on 29.03.2016, failing which orders will be

passed with the available records. Since "B" party did not produce the records, another conciliation talks were held on 08.03.2016 and he did not utilise and therefore, taking into consideration the Civil Court decree passed in O.S.No.376 of 2010, has passed the impugned order and also permitted to conduct the festival with the help of the police aid through the fourth respondent.

4. The second respondent, appearing as party-in-person, has filed the counter affidavit stating among other things that the defendants belong to Scheduled Caste community and though summons were served and the third defendant has also filed the written statement, they did not chose to conduct the matter and therefore, suit came to be decreed ex-parte on 08.04.2011 and application was taken in I.A.No.566 of 2014 for condonation of delay in filing the application to set aside the ex parte order and it was also dismissed on 08.10.2014 and though challenge was made by filing the civil revision petition on the file of this Court, it is yet to be numbered and on the basis of the representation submitted by him, the first respondent has taken into consideration the civil Court decree and rightly granted permission to conduct the festival with the police aid and prays for dismissal of this writ petition.

5. The fourth respondent has also filed the counter affidavit stating among other things that there is a prolonged dispute between the Adi-Dravidar community and upper caste people and two criminal cases were also registered in Crime No.336 of 1999 under Sections 147, 148, 341, 506(ii) and 7(1)(a) CLA Act r/w 3(1)(x)(xiv) SC/ST Act and in Crime No.337 of 1999 under Sections 147, 148, 323, 324 and 354 IPC and a case in Crime No.353 of 1999 also been registered under Section 107 Cr.P.C. It is further stated by the fourth respondent that they are prepared to give necessary permission for the conduct of temple festival and also observe the law and order problem and to comply with any conditions or orders or instructions imposed by this Court.

6. This Court has carefully considered the rival submissions and also perused the materials before it.

7. It is an admitted fact that O.S.No.376 of 2010 was filed by one Ponnusamy Gounder as the Hereditary trustee along with five others in their representative capacity and also on behalf of Thirumalipatti Sri Mariyamman and Vinayagar Temple against Trl. Paraman, Sakarai, Thangavel, Baskaran and Murugesan, who are the residents of Adi-dravidar Street, as a representative of people belonging to Adi-Dravidar Community. The suit came to be

decreed ex parte on 08.04.2011. The defendants in the said suit filed I.A.No.566 of 2014 for condonation of delay in filing the application to set aside the ex parte decree and it was dismissed on 08.10.2014 and challenging the legality of the said fair and decreetal order, revision petition has been filed with an application for condonation of delay and according to the learned counsel appearing for the petitioner, notices have been ordered to the respondents in the condonation of delay application and the said application is yet to be numbered.

8. The first respondent, on the basis of the representation submitted by the petitioner, has also convened peace committee meetings on 18.02.2016, 03.03.2016 and 08.06.2016 and having extracted the contents of the Civil Court decree, passed orders in favour of the plaintiff therein and therefore, granted permission to conduct the festival. It is also the submission of the second respondent/party-in-person that since it is declared as a private temple, the right of the people belonging to lower caste community has been restricted. However, this Court is not inclined to go into the same for the following reasons:-

(i) Though the first respondent is not a party to the above said civil proceedings, he has expressed his inclination to give effect to the decree and accordingly passed the impugned order. It is to be noted at this juncture that the application filed by the defendants in the above said suit for condonation of delay in filling the application for setting aside the ex parte decree came to be dismissed and a revision petition is also filed with a delay, wherein notices have been ordered and the miscellaneous petition is yet to be listed for hearing before this Court.

(ii) Though it is vehemently contended by the learned counsel appearing for the petitioner that under the guise of civil Court decree, the people belonging to Adi-dravidar community are denied entry into the said temple, this Court, in the light of the civil Court decree, coupled with the fact that the representation submitted by the second respondent based on the civil Court decree has been taken cognizance by the first respondent, who passed the impugned order, is of the view that the remedy open to the petitioner, if any, is to pursue the civil revision petition and also any other remedy open to him or to the community in accordance with law.

9. In the light of the facts and circumstances, this Court is not inclined to interfere with the impugned order and therefore, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Executive Magistrate cum
Revenue Divisional Officer,
Namakkal District.

2.The Tahsildar,
Senthamangalam Taluk.

3.The Inspector of Police,
Puduchatram,
Namakkal District.

+1cc to Mrs.Selvi George, Advocate Sr.36017

+1cc to the Government Pleader Sr.36343

Writ Petition No.20399 of 2016
and W.M.P.Nos.17500 & 17501 of 2016

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srg 22/07/2016

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