

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM

THE HON'BLE Mrs.JUSTICE HULUVADI G.RAMESH

And

THE HON'BLE MR JUSTICE V.PARTHIBAN

W.A.No.1263 of 2016

and

C.M.P.No.16320 of 2016

G.Nesathamilan @ Pitchapillai

... Appellant

Vs.

1. The Government of Tamil Nadu,
rep.by its Secretary,
Home Department,
Fort St.George,
Chennai-600 009
2. The District Collector,
Villupuram District,
Villupuram.
3. The Sub-Divisional Magistrate
Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
4. The Superintendent of Police,
Villupuram District,
Villupuram.
5. M.Sakthivel

... Respondents

Writ appeal preferred under Clause 15 of Letters Patent Act,
against the order dated 01.12.2015 made in W.P.No.26545 of 2015.

W.P.No.26545 of 2015 : Writ Petition filed under Article 226 of
the Constitution of India, praying this Hon'ble Court to issue a
Writ of Certiorarified Mandamus, to call for the records
relating to the impugned order made in ROC No. 2596/2015 A3
(Prohibitory order Under Section 144 Cr.PC), dated 16.8.2015
passed by the Third Respondent herein, and quash the same as
illegal and direct the Respondents to grant Police Protection to

conduct the Car Festival of Mariyamman Temple situated at Pandian Kuppam Village Dalith peoples situated at Pandiyan Kuppam Chinna Salem Villupuram District from 30.8.2015 to 8.9.2015 to secure the ends of justice.

For Appellant : Mr.R.Sankarasubbu

For Respondents : Mr.P.Karthikeyan,
Government Advocate for R1 to R4
Ms.R.Divya for
Mr.K.Balu for R5

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G.RAMESH,J)

Challenging the order, dated 01.12.2015, made in W.P.No.26545 of 2015, by the learned single Judge, declining to grant the relief sought for by the petitioner to provide police protection to conduct car festival at Mariyamman Temple, situated at Pandiyan Kuppam, Chinna Salem, Villupuram District, by the Pandian Kuppam Village Dalith people, from 30.08.2015 to 08.09.2015, the petitioner is before this Court, by way of writ appeal.

2. The brief facts of the case leading to the filing of the writ petition are that the appellant/writ petitioner belongs to Scheduled Caste community, residing in Pandiyan Kuppam Village. The said Mariyamman temple is the only worship of the people belonging to Scheduled Caste community and every year they are conducting a car festival in the said Temple. During 2015, the 'Car Festival' was scheduled to be conducted from 06.08.2015 to 13.08.2015. It is stated that discrimination is being practiced by the caste Hindus, District Administrators and the local police and they prevented the petitioner group from conducting and participating in the car festival at Mariyamman temple. In this regard, the appellant/writ petitioner filed a writ petition and the matter was contested. The other group was also made as party to the writ petition.

3. The third respondent, viz., The Sub Divisional Magistrate and Revenue Divisional Officer, having obtained the opinion of the Deputy Superintendent of Police, Kallakurichi, that no amicable settlement has been reached between the two communities on the issue; that there is every possibility of breach of peace, which would disturb the public tranquility and that it is not feasible to permit the conducting of car festival, has issued a prohibitory notice, dated 09.08.2015, prohibiting the conducting of car festival by the petitioner group. Despite such prohibitory notice, it was reported by the District Administration that the appellant/petitioner group have

announced that the car festival would be conducted as scheduled. There was also a communal clash in the adjacent village, namely, Seshasamudram, which is about 25 kms away from Pandiankuppam Village, in respect of conducting the car festival. It was also reported that the other group is indulging in rioting and stone pelting and hurled petrol bombs, by which, 8 policemen and three village assistants got injured and also five houses belonging to the scheduled caste community were burnt. As the situation was abnormal, the car festival sought to be conducted at Pandiyankuppam Village, also has to be prevented, as there was a dispute over conducting of the car festival between the two groups in the said village and accordingly, the third respondent resorted to promulgate Section 144(1) and (3) of Cr.P.C. to maintain law and order and to prevent breach of peace and tranquility.

4. The fourth respondent, namely, the Superintendent of Police also has filed a report, resisting the claim of the petitioner for conducting the car festival and for extending the police protection on the ground of breach of peace and to prevent communal clash between the two communities.

5. However, during October, 2015, the Sub Divisional Magistrate and the Revenue Divisional Officer, Kallakurichi/the third respondent herein was directed to conduct a Peace Committee Meeting of the prominent members of both the communities, for arriving at an amicable settlement between the parties for the conduct of the car festival. Accordingly, the meeting was held on 19.11.2015, and a report was submitted to the effect that no amicable settlement has been arrived at between the two group communities and if car festival is allowed to be conducted, either in Solaiamman Temple by the caste Hindus or in the Mariyamman Temple, by the Scheduled caste people, there might be every possibility of breach of public peace and order and therefore, prohibitory order was issued by the Sub Divisional Magistrate and Revenue Divisional Officer/third respondent under Section 144 of Cr.P.C., on 21.11.2015, prohibiting the conducting of car festival and other activities in Pandiyankuppam Village, from 21.11.2015 to 19.01.2016.

6. Thus, noting that clash between the group of Hindus on one side and the group of Scheduled community on the other side, is prevailing since 2012, and also having gone through the report submitted by the Superintendent of Police and the failure of the peace committee meeting, and the prevailing situation between the two groups in the village, the learned single Judge has opined that there is no need to provide police protection, as sought for by the appellant/writ petitioner, to conduct the car festival. The learned single Judge also observed that the Court cannot interfere with matters relating

to law and order, which is primarily within the domain of the concerned administrative authorities and they are the best assesses and handle the situation depending upon the peculiar needs and necessities, within their special knowledge. Having come to such conclusion, the learned single Judge has dismissed the writ petition, as against which, the writ petitioner has preferred the present writ appeal.

7. We have heard Mr.R.Sankarasubbu, the learned counsel appearing for the appellant/writ petitioner, Mr.P.Karthikeyan, the learned Government Advocate, appearing for R1 to R4 and Mr.K.Balu, the learned counsel appearing for the fifth respondent and we have also perused the materials available on record, carefully.

8. The learned counsel for the appellant/writ petitioner has submitted that the appellant group is celebrating the car festival every year in the village, viz., Pandian Kuppam. He would further submit that it is the duty of the District authorities to extend protection to conduct the car festival and to avoid any clash between the groups. It is also submitted that the District administration should ensure safe protection of the people to celebrate their religious functions. Prevention of conducting any religious functions by the Scheduled community would amount to offence against the Scheduled Caste people and it actually amounts to atrocity, is the contention of the learned counsel for the appellant/writ petitioner.

9. The learned Additional Government Pleader submitted that law and order is paramount and the contention of the appellant/writ petitioner that it is atrocity, cannot be accepted. He would further submit that it is the duty of the the District Administration to take a decision, according to law, after studying the prevailing situation and also keeping in mind the interest of public and the maintenance of law and order.

10. The learned Additional Government Pleader would further submit that the car festival sought to be conducted for the previous year, i.e. 2015 could not be conducted, since prohibitory order has been passed by the Sub-Divisional Magistrate/Revenue Divisional Officer, prohibiting the conducting of festival, on the basis of the report submitted by the Superintendent of Police, and the District Administration regarding the situation prevailing in the village and the likelihood of communal clash between the two groups and also the substantial damage that would be caused. The learned Single Judge, having taken into consideration all the fact situations, has observed that maintenance of law and order is paramount, to

avoid communal clash and any clash between two groups and public peace is paramount than individual rights and therefore, the order passed by the learned Single Judge need not be interfered with, the learned Additional Government Pleader contended.

11. Considering the facts and circumstances of the case and also the submissions made on either side, at the outset itself, we would like to observe that for the previous year, the relief sought for has become infructuous, as the period has already been lapsed and the function could not be conducted, as it was opined by the District Administration, based on the report of the Superintendent of Police, that conducting of such function was not feasible, as the prevailing situation in the village was not satisfactory. Therefore, the writ appeal for all practical purposes has become infructuous.

12. So far as the conducting of the car festival every year is concerned, as and when a new cause of action arises for the years to come, it is for the appellant/writ petitioner to approach the Sub Divisional Magistrate or the Collector, seeking such permission and in such case, it is for the authority concerned either to hold a Peace Committee Meeting between the two groups and to bring them to talks and to take a decision in accordance with law, either permitting the appellant/writ petitioner to conduct the car festival as in the usual course or rejecting the claim of the appellant/petitioner. It is made clear that before passing any order, the authority concerned shall look into fact situations and also keep in mind the right of the appellant/writ petitioner in celebrating their religious functions and also the prevailing situation and the peace and harmony in the village and the interest of the public at large.

The writ appeal is disposed of accordingly. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
The Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai-600 009

2. The District Collector,
Villupuram District,
Villupuram.
3. The Sub-Divisional Magistrate
Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
4. The Superintendent of Police,
Villupuram District,
Villupuram.

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.63961
+1cc to Mr.K.Balu, Advocate, S.R.No.63862

W.A.No.1263 of 2016

SV(CO)
CA(02/12/2016)



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