

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.401 of 2016
and
C.M.P.Nos.5870 and 5871 of 2016

V.Palanisamy

.. Appellant

Vs.

1. Mrs.V.Suguna

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruchengode Taluk,
Namakkal District.

3. The Deputy Superintendent of Police,
Police Department,
Thiruchengode,
Namakkal District.

4. The Joint Commissioner,
H.R.&C.E. Department,
Salem.

.. Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 23.03.2016 passed in W.P.No.10778 of 2016 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to consider the representation of the petitioner dated 16.3.2016, seeking permission for conducting the Panguni Festival before 24.3.2016 to 7.4.2016 at Vinayagar Mariamman Karia Kula Kaliyamman Temple at Padaveedu Village, Natham Medu, Komarapalayam Taluk, Namakkal District.

For Appellant Mr.R.Subramanian

For respondents Mrs.Rita Chandrasekar, Spl.G.P.
For R-4
Mr.P.S.Sivashanmugasundaram,
Spl.G.P. For RR2 and 3
Mr.S.Sethuraman for R-1

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of learned counsels for parties, the writ petition is taken up for final disposal.

2 The instant appeal is filed by way of leave granted to the appellant against the order dated 23rd March, 2016 passed by the learned Single Judge in W.P.No.10778 of 2016.

3 The sole contention of the appellant is that by order dated 28th July, 1995 in C.M.P.No.269 of 1995 in Appeal No.11 of 1995 (Palanisamy and 5 others Vs. Rathinam and 4 others), pending on the file of this Court, an order of interim injunction restraining the respondents therein from interfering with the appellant's management and possession of the temple and its properties was granted. The said interim injunction is still continuing as the appeal is still pending. The first respondent herein, without impleading the appellant as party respondent in the writ petition, has obtained an order to the following effect :

“6.When the matter is taken up, the learned counsel appearing for the petitioner submitted that the villagers are ready and willing to conduct the festival in the presence of the respondents 1 and 2 herein, for which the learned Government Advocate and the learned Special Government Pleader appearing for HR & CE have no objection.

7.In view of the submission made by the learned counsel appearing for the petitioner, this Court directs the respondents to grant permission to the petitioner for conducting the Panguni Festival, which is going to be held from 24.03.2016 to 07.04.2016 at Vinayagar Mariamman and Karia Kaliyamman Temple, situated at Padaveedu village, Natham Medu, Namakkal District, in the presence of the respondents 1 and 2 smoothly, without creating any law and order problem.”

The appellant, being a necessary party, is entitled to be heard before any order is passed in respect of the conduct of Panguni festival. Thus, the writ petition deserves to be dismissed for non joinder of proper parties.

4 In response, Mrs.Rita Chandrasekar, learned Special Government Pleader appearing for respondent No.4 would contend that admittedly, the fourth respondent herein was the party to the pending suit and appeal. However, the order passed by the learned Single Judge would not affect the appellant's right to management and possession of the temple.

5 The learned counsel appearing for the writ petitioner / first appellant herein would contend that the writ petitioner was not aware of any order passed by this Court.

6 Be that as it may, the fourth respondent was represented through counsel and was aware of the interim order as aforestated passed in the appeal. However, the same was not brought to the notice of the learned Single Judge. The direction to grant permission to the first respondent / writ petition may have bearing in the functioning of the temple and as such, any order ought to have been passed after hearing the appellant herein also. However, as stated by the learned counsel appearing for the parties that the fourth respondent is competent to look into the entire affairs and take a considerate decision in the interest of temple and religious functions performed therein and in view of the fact that several meetings have taken place in consultation with all concerned, including the appellant for smooth celebration of the Panguni festival, the appeal is being disposed of.

7 In such view of the matter, while dismissing the writ petition for non joinder of proper parties, we make it clear that the fourth respondent herein shall take all necessary steps in consultation with all parties concerned for the conduct and conclusion of Panguni festival at Vinayagar Mariamman Karia Kula Kaliyamman Temple at Padaveedu Village, Natham Medu, Kumarapalayam Taluk, Namakkal District to be held till 7th April, 2016. The writ appeal is allowed in the aforestated terms. No costs. Consequently connected miscellaneous petitions are closed.
vvk

s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruchengode Taluk,
Namakkal District.
2. The Deputy Superintendent of Police,
Police Department,
Thiruchengode,
Namakkal District.
3. The Joint Commissioner,
H.R.&C.E. Department,
Salem.

+ 1 cc to Mr.R.Subramanian, Advocate SR 20607
+1 cc to Mr.S.Sethuraman, Advocate, sr.21521(17.06.2016)

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W.A. No.401 of 2016



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