

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-02-2016

Coram :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 3849 of 2016

and

Writ Miscellaneous Petition Nos. 3219, 3220 and 3221 of 2016

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V. Selvam

.. Petitioner

Versus

1. The District Collector
Villupuram District
Villupuram
2. The District Revenue Officer
Villupuram District
Villupuram
3. The Executive Magistrate
cum Revenue Divisional Officer
Thirukovilur
Villupuram District
4. The Tasildhar
Thirukovilur Taluk
Thirukovilur
Villupuram District
5. The Superintendent of Police
Villupuram
Villupuram District
6. The Deputy Superintendent of Police
Thirukovilur
Villupuram District
7. The Inspector of Police
Manalurpet Police Station
Thirukovilur Taluk
Villupuram District

8. The Joint Commissioner
The Hindu Religious and Charitable
Endowment Department
Villupuram

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records in proceedings in C.No.173/SDO/ E/16 dated 29.01.2016 on the file of the sixth respondent and consequential order in Na.Ka.No.A3/510/2016 dated 30.01.2016 on the file of the third respondent, quash the same and to grant permission for conducting Kumbabhishekam festival for Sri Dhraupadi Amman, Sri Mariamman, Sri Dharmaraja Temple situated at Kuladeepamangalam Village, Thirukovilur Taluk, Villupuram District.

Petitioner : Mr. G. Rajan

For Respondents: Mrs. P. Rajalakshmi
Government Advocate for RR1 to 7

Mr. K.V. Dhanapalan
Additional Government Pleader
(HR & CE) for R7

ORDER

The petitioner is the President of Kuladeepamangalam Village Panchayat. In the said Village, there is an ancient temple called Sri Dhraupadi Amman, Sri Mariamman and Sri Dharmaraja Temple which according to the petitioner was consecrated about three centuries back by the Village ancestors. According to the petitioner, the Villagers had a staunch belief that the prosperity of the village largely depends upon the proper maintenance of the temple by performing concecration in accordance with Hindu rites and customs. The said temple is under the administrative control and management of private persons. In the year 2007, at the time of conducting the temple festival, difference arose between two group of communities and it resulted in disruption of peace. In connection with the group clash, the festival was abruptly stopped and the seventh respondent herein has registered cases in Crime Nos. 94, 95, 108 and 103 of 2007 against both the groups. The third respondent also passed a prohibitory order under Section 144 of Criminal Procedure Code to prevent any untoward incident and to restore normalcy in the Village. Thereafter, at the instance of the elders of the Villagers, the rival groups have decided to bury their difference and to peacefully worship the deity for the welfare and well being of the Villagers at large. Accordingly, the temple festival was conducted from 2008 peacefully, without any disturbance, whatsoever. While so, on 16.03.2015, a meeting was convened among all the people of Kuladeepamangalam Village

and it was unanimously decided to perform the Kumbabhishekam for the temple. On the basis of the outcome of the meeting, on 18.03.2015, a resolution was passed and signed by all the people representing different communities to the effect that the festival shall be conducted without any disruption. Thereafter, it was decided to perform the Kumbabhishekam on 03.02.2016 in accordance with Hindu rites and customs. For the purpose of performing the Kumbabhishekam, the Villagers of Kuladeepamangalam have submitted a representation to the respondents 1 to 7 seeking police protection to conduct the Kumbabhishekam especially when large crowd was expected to witness the function. On the basis of the representation, the seventh respondent issued summons to all the Villagers and conducted an enquiry in his office on 29.01.2016. Similarly, the third respondent also conducted a peace committee meeting on 30.01.2016 which was attended by representatives of the Villagers. While so, instead of granting permission, the sixth respondent has passed the impugned order dated 29.01.2016 refusing to grant permission to perform the Kumbabhishekam on 03.02.2016 by citing the group clash between the two communal groups held in the year 2007. On the basis of the order dated 29.01.2016 of the sixth respondent, the third respondent has passed the consequential order dated 30.01.2016 refusing to grant permission to perform the Kumbabhishekam on the ground that there is likelihood for breach of peace and tranquility if the Kumbabhishekam is performed on 03.02.2016. Therefore, challenging the aforesaid orders passed by the sixth respondent and the consequential order passed by the third respondent, the present writ petition has been filed.

2. The learned counsel for the petitioner would contend that the reasons cited in the impugned order that there is likelihood of breach of peace and tranquility is legally not sustainable. There is no single incident took place after the occurrence during the year 2007. Therefore, the respondents are not justified in refusing to grant permission by citing the group clash that took place during the year 2007. It is further stated that the Villagers could not perform the festival on 03.02.2016 as fixed by them and now they have fixed few other dates for commemoration of the Kumbabhishekam. Therefore, the learned counsel for the petitioner prayed for issuing appropriate direction to the respondents to permit the Villagers to perform the festival.

3. Per contra, the learned Government Advocate appearing for the respondents 1 to 7, relying on the letter dated Nil.02.2016 of the third respondent, contended that before passing the impugned order, a discreet enquiry was conducted and based on the confidential report given by the sixth respondent, the order dated 29.01.2016 was passed by the seventh respondent. Though the group clash occurred in the year 2007, still there is

a dispute between the rival groups and in all these years between 2007 to 2015, no festival was conducted in the temple. It is further stated that in the peace committee meeting held by the third respondent along with the Tahsildar, it was unanimously agreed that the date for performing the Kumbabhishekam can be postponed. While so, the petitioner is estopped from filing the present writ petition. According to the learned Government Advocate, only to avoid breach of peace and tranquility, the impugned order dated 30.01.2016 was passed by the third respondent and she prayed for dismissal of the writ petition.

4. The learned learned Additional Government Pleader (HR & CE) appearing for the eighth respondent would contend that the petitioner has no locus standi to file this writ petition as he is only the President of the Kuladeepamangalam Village Panchayat. The trustee of the temple has not come forward to file this writ petition. Therefore, according to the learned Additional Government Pleader, the writ petition is not maintainable and it is liable to be dismissed.

5. I heard the learned counsel for both sides and perused the material records. Admittedly, the Kumbabhishekam for the temple in question could not be performed on 03.02.2016, the date fixed by the Villagers. The respondents would mainly contend that earlier, there was a group clash between two group of communities in the Village which led to registration of criminal cases by the seventh respondent besides the third respondent also passed an order under Section 144 of Cr.P.C. to prevent any untoward incident. According to the respondents, even today, there is a possibility for breach of peace and tranquility and therefore, the permission sought for by the Villagers was not granted.

6. When the sixth respondent has passed an order dated 29.01.2016 refusing to grant permission for performance of the Kumbabhishekam based on which the third respondent also passed a consequential order on 30.01.2016, specifically by citing likelihood of breach of peace and tranquility, this Court cannot issue a direction to the respondents to permit the Villagers to perform the Kumbabhishekam. It is well settled that disputed questions of fact cannot be gone into and appreciated by this Court in exercise of powers under Article 226 of The Constitution of India. Further, as rightly pointed out by the learned Additional Government Pleader appearing for the eighth respondent, the Trustee of the temple has not filed this writ petition questioning the validity of the impugned orders. It is also seen from the records that even on 03.02.2016, a peace committee meeting was convened by the third respondent along with the Tahsildar concerned which was also attended by the representatives from all communities in the Village in which it

was unanimously agreed that the date fixed for performance of the Kumbabhishekam can be postponed. In such circumstances, it is just and proper to issue appropriate direction to the petitioner to submit a representation along with the Trustee of the temple to the third respondent and on receipt of the same, the third respondent shall conduct a peace committee meeting and based on the outcome of such meeting, the third respondent shall independently fix a date for performing the Kumbabhishekam of the temple.

7. Accordingly, this writ petition is disposed of with a direction to the petitioner to submit a detailed representation to the third respondent. The trustee of the temple in question is also directed to submit a representation to the third respondent seeking permission to commemorate the Kumbabhishekam of the temple. On receipt of such representations, the third respondent shall convene a peace committee meeting, hear the representatives of the Villagers and others concerned, afford them an opportunity of hearing and then pass appropriate orders on merits and in accordance with law with regard to conducting the Kumbabhishekam for the temple, within a period of three weeks from the date of convening the peace committee meeting. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Collector
Villupuram District
Villupuram
2. The District Revenue Officer
Villupuram District
Villupuram
3. The Executive Magistrate
cum Revenue Divisional Officer
Thirukovilur
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Manalurpet Police Station
Thirukovilur Taluk
Villupuram District
8. The Joint Commissioner
The Hindu Religious and Charitable
Endowment Department
Villupuram

+1 cc to Mr.G.Raju Advocate vide sr.8375/16
+1 cc to M/S.Government Advocate vide sr.8560 &
8600/16

WP No. 3849 of 2016

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