



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.10.2016

Delivered on : 07.10.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.A.(MD)No.1340 of 2016

&

C.M.P.(MD)Nos.9629 & 9630 of 2016

P.Milany .. Appellant/Petitioner
Vs.

1.The Superintendent of Police,
Theni District,
Theni.

2.The Deputy Superintendent of Police,
Theni District,
Theni.

3.The Inspector of Police,
Veerapandi Police Station,
Theni.

4.Ramesh Babu, S/o.P.Natarajan .. Respondents/Respondents

Prayer : Appeal filed under under Clause 15 of the Letters Patent, against the order dated 06.04.2016, made in W.P.(MD) No.3880 of 2016.

Prayer in WP(MD). 3880/ 2016 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for all records of the 2nd respondent made on 19.02.2016 and quash the same and direct the respondents 1 and 2 to grant permission and provide necessary protection to the petitioner and their community members to worship and celebrate their annual festival at Arulmighu Sikkumallammal Temple, Karrunayaganpatti, Theni District in the month of February or thereafter giving permission giving 7 days time for the petitioner to observe fasting penance and other rituals on the basis of his representation dated 21.02.2016.

For Appellant : Mr.M.Joseph Thatheus Jerome

For R1 to R3 : Mr.R.Velmurugan
Government Advocate

For R4 : Mr.Sugumar
for Mr.S.Subbiah

**JUDGMENT**

This Writ Appeal has been filed by the appellant challenging the order of the learned Single Judge, dated 06.04.2016, made in W.P.(MD)No.3880 of 2016.

2. The appellant/petitioner has filed W.P.(MD)No.3880 of 2016 seeking to quash the order of the second respondent, dated 19.02.2016 and also a direction to the respondents 1 and 2 to grant permission and provide necessary protection to the appellant/petitioner and their community members to worship and celebrate their annual festival at Arulmighu Sikkumallammal Temple, Kattunayaganpatti, Theni District.

3. The facts of the case:

(i) In a Temple, by name Arulmighu Sikkumallammal, in Kattunayaganpatti at Theni District belonging to Okkalikar Community, there is a dispute between two groups with regard to conduct of festival of the Temple. The said Temple is not under the control of H.R. & C.E. Department. In the Temple, the festival will be celebrated in the Tamil month of 'Thai' between 15th January and 15th February. In the festival, all the Village people irrespective of caste and community will participate including Dalit community. Only at the time of festival, in the Tamil month of 'Thai', the Temple will be opened by 'Poosari', who is the custodian of key. After the celebration, the Temple will be locked and key will be with the 'Poosari'. The disputes have arisen between two groups belong to appellant's group and fourth respondent's group with regard to conduct of the Temple festival.

(ii) Many number of criminal cases have been registered against both the groups. The appellant filed W.P.(MD)No.2420 of 2016, seeking a direction to the respondents 1 and 3 to provide adequate police protection to the appellant and his community members to worship and celebrate the annual festival as per schedule at Arulmighu Sikkumallammal Temple, Kattunayakkanpatti, Theni District, in the month of February on 07.02.2016 and 08.02.2016 based on the appellant's representation, dated 12.01.2016. This Court, vide order dated 04.02.2016, directed the second respondent/Deputy Superintendent of Police, Theni, to conduct enquiry with both the groups and explore the possibilities of amicable settlement by permitting both the parties to worship in the Temple on two different dates. Meanwhile, on 06.02.2016, the Tahsildar, Theni, convened a Peace Committee Meeting. All the Villagers, except the appellant's group, have participated in the Peace Committee Meeting and they expressed their views that the fourth respondent may be permitted to conduct the festival and therefore, the Tahsildar permitted the conduct of the festival on 08.02.2016 and 09.02.2016 by all the communities. Accordingly, the Temple festival was celebrated by all the communities on 08.02.2016 except the appellant's group.



(iii) In pursuant to the order of this Court, dated 04.02.2016, made in W.P.(MD)No.2420 of 2016, the second respondent/Deputy Superintendent of Police, Theni, conducted a Peace Committee Meeting and both the appellant's group and the fourth respondent's group attended the Peace Committee Meeting and after enquiry, the second respondent/Deputy Superintendent of Police, Theni, rejected the representation of the appellant, vide order dated 19.02.2016, on the ground that there is a possibility of serious law and order problem, if permission is granted to conduct the Temple festival.

(iv) Aggrieved by the said order, the appellant has filed W.P.(MD)No.3880 of 2016 for the relief stated supra.

(v) The fourth respondent has also filed W.P.(MD) No.3661 of 2016 forbearing the respondents 2 and 3 from passing any orders from reopening the Arulmigu Sikkumallammal Temple, Kattunayakkanpatti, Theni District, to fix a date for worshipping the Deity and celebrate the Temple festival by violating the customary rights and practice.

(vi) The appellant has also filed Contempt Petition(MD) No.255 of 2016, alleging that the second respondent has violated the order of this Court, dated 04.02.2016, passed by this Court, in W.P.(MD)No.2420 of 2016.

(vii) This Court heard all the three matters together and dismissed the Contempt Petition on the ground that the second respondent has not violated the order of this Court, dated 04.02.2016. The writ petition filed by the appellant was also dismissed by this Court, vide order dated 06.04.2016 on the ground that the Temple festival was already celebrated on 08.02.2016 and the Temple is a Village Temple and it is not under the control of H.R. & C.E. Department and also there is a dispute between the appellant's group and the fourth respondent's group, which cannot be decided in the writ proceedings.

(viii) In view of dismissal of W.P.(MD)No.3880 of 2016, filed by the appellant, the learned Judge dismissed W.P.(MD) No.3661 of 2016 filed by the fourth respondent.

3. Against the order of dismissal dated 06.04.2016, made in W.P.(MD)No.3880 of 2016, the appellant has come out with the present writ appeal.

4. Mr.M.Joseph Thatheus Jerome, learned counsel for the appellant submitted that the appellant's group belong to Okkalikar Community and they have right to worship in the Temple. Not only the right of a Dalit to worship in the Temple is protected, but also the right of people belong to all communities are protected by Constitution of India. The denial of protection to the petitioner, who is a Hindu, is against Article 14 of the Constitution of India. The majority group cannot prevent a minority group from worshipping the Deity in the Temple. The learned counsel for the appellant placed



reliance upon the judgment of the Hon'ble Apex Court reported in 2016 (2) SCC 725 [Adi Saiva Sivachariyargal Nala Sangam Vs. Government of Tamil Nadu].

5. Mr.R.Velmurugan, learned Government Advocate appearing for the respondents 1 to 3 submitted that there are several criminal cases are pending against the both the appellant's group and the fourth respondent's group and there is a dispute with regard to conduct of Temple festival in the Village Temple, which can be decided in competent Civil Court, after considering the evidence let in before the Court. If the appellant's group is permitted to conduct the Temple festival, it will lead to law and order problem. The order passed by the second respondent/Deputy Superintendent of Police, Theni, in the facts and circumstances, is valid and legal and the learned Judge has considered all the aspects of the case and dismissed the writ petition and therefore, he prayed for dismissal of the writ appeal.

6. Heard Mr.Sugumar, learned counsel appearing for the fourth respondent.

7. We have carefully perused all the materials available on record and considered the arguments advanced by the learned counsel appearing for the parties.

8. It is an admitted fact that the Temple is a Village Temple and belongs to all communities in the Village and it is not under the control of H.R. & C.E. Department. As per customary rights of the Village people, the Temple is kept under lock and key, except in the month of 'Thai', when the Temple is opened by 'Poosari' to celebrate the Temple festival. After conducting the Temple festival in the month of 'Thai', the Temple is again locked and the key is being kept in the custody of 'Poosari'. In the Temple festival, all the Villagers including Dalit people are participating and there is no restriction imposed on any particular community from worshipping the Deity in the Temple.

9. It will be useful to extract paragraphs 3 and 4 of the affidavit filed by the fourth respondent, in W.P.(MD)No.3661 of 2016 and paragraph 17 of the counter affidavit filed by the fourth respondent in W.P.(MD)No.3880 of 2016.

W.P.(MD)No.3661 of 2016:

"3. I submit that every year in the Tamil month of "Thai" the Village people are jointly celebrating the temple festival of "Arulmigu Sikkumallammal Temple". It is a customary worship that the temple will be open only in the festival days; thereafter it will be locked for all along the year and the temple key rest with "Poosari" of the temple, except him no one are allowed to enter into the temple.

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4. I submit that more than several decades the above said customs have been followed in our village,



till today without any quarrel and interference the temple festival have been conducted and the people in and around the village are also participating and worshipping the deity."

W.P. (MD) No. 3880 of 2016:

"17. Since, the temple is a public temple; no one has been prevented from worshipping the deity "Arulmigu Sikkumallammal" and other adjacent temples of Arulmigu Varasithi Vinayagar temple and Sri Pattambal temple. As such, there is no hindrance to the petitioner from worshipping the deity at any point of time. Further at the time of annual festival, the petitioner and their men are all cordially welcomed by the village people to participate and celebrate the temple festival, but the petitioner having personal and political vengeance forming a group intrude in the temple festival, put the entire village into hardship."

10. Considering all the facts and circumstances of the case, there is no reason warranting interference with the order passed by this Court, dated 06.04.2016, made in W.P. (MD) No. 3880 of 2016. The writ appeal is devoid of merits and the same is dismissed. No costs. Consequently, connected C.M.P. (MD) Nos. 9629 & 9630 of 2016 are also dismissed.

Sd/-

Assistant Registrar (CS II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Theni District,
Theni.
2. The Deputy Superintendent of Police,
Theni District,
Theni.
3. The Inspector of Police,
Veerapandi Police Station,
Theni.

+1 cc to Mr. S. Sukumar, Advocate in SR No. 60682

+1 cc to M/s. M. Joseph Thatheus Jerome, Advocate in SR No. 60632

+1 cc to Spl. Govt. Pleader in SR No. 60526

W.A. (MD) No. 1340 of 2016

&

C.M.P. (MD) Nos. 9629 & 9630 of 2016

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