



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

WEB COPY

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

WP (MD) Nos.10434 & 10438 of 2016

WP (MD) No.10434 of 2016

S.Karthikeyam

.. Petitioner

Vs.

1.The District Collector,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Sivagangai.

4.The Manager,
Sivagangai Samasthana Devasthanam
Sivagangai.

5.The Inspector of Police,
Aaravayal Police Station,
Aaravayal.

6.Regunathan

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 herein to permit the petitioner herein to conduct the 4th day Mandagapadi i.e. 14.06.2016 to Sri Swarnamoortheswarar, Kunguma Kalliamman Temple, Kandadevi under the supervision of respondents 1 to 3 herein or in the alternative direct the 4th respondent themselves to conduct the same by considering the representation dated 11.06.2016 given by the petitioner.



For RR - 1 to 3

: Mr.V.R.Shanmuganathan
Spl.Govt.Pleader

For R - 4

: Mr.T.Srinivasa Raghavan

For R - 5

: Mr.D.Muruganandam
Addl.Govt.Pleader

For R - 6

: Mrs.G.R.Swaminathan
for Mr.N.Ramji

WP(MD)No.10438 of 2016

R.P.Bala Murugan

.. Petitioner

Vs.

1. The District Collector,
Sivagangai.
2. The Revenue Divisional Officer,
Devakottai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Sivagangai.
4. The Manager,
Sivagangai Samasthana Devasthanam
Sivagangai.
5. The Inspector of Police,
Aaravayal Police Station,
Aaravayal.
- 6.Regunathan

7.S.Karthikeyan

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 herein to permit the petitioner to conduct the 4th day Mandagapadi i.e. on 14.06.2016 in Sri Swarnamoortheswarar, Kunguma Kalliamman Temple, Kandadevi, Devakottai Taluk, Sivagangai District or in the alternative forbear the respondents from permitting the 6th or 7th respondents from conducting the 4th day Mandagapadi i.e. on 14.06.2016 in Sri Swarnamoortheswarar, Kunguma Kalliamman Temple, Kandadevi, Devakottai Taluk, Sivagangai Dist.



For Petitioner : Mr.J.Anandkumar
For RR - 1 to 3 : Mr.V.R.Shanmuganathan
Spl.Govt.Pleader
For R - 4 : Mr.T.Srinivasa Raghavan
For R - 5 : Mr.D.Muruganandam
Addl.Govt.Pleader
For R - 6 : Mrs.G.R.Swaminathan
for Mr.N.Ramji
For R - 7 : Mr.S.Manikandan

COMMON ORDER

WP(MD)No.10434 of 2016 is filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to permit the petitioner to conduct the 4th day Mandagapadi i.e. 14.06.2016 to Sri Swarnamoortheswarar, Kunguma Kaliasman Temple, Kandadevi under the supervision of the respondents 1 to 3 or alternatively to direct the fourth respondent themselves to conduct the same by considering the representation dated 11.06.2016 given by the petitioner.

2.WP(MD)No.10438 of 2016 is filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to permit the petitioner to conduct the 4th day Mandagapadi i.e. on 14.06.2016 in Sri Swarnamoortheswarar, Kunguma Kaliasman Temple, Kandadevi, Devakottai Taluk, Sivagangai District or alternatively, to forbear the respondents from permitting the 6th or 7th respondents from conducting the 4th day Mandagapadi i.e. on 14.06.2016 in the said Temple.

3.Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 1 to 3 in both Writ Petitions. In both Writ petitions, Mr.T.Srinivasa Raghavan, learned counsel takes notice for the fourth respondent; Mr.D.Muruganandam learned Additional Government Pleader takes notice for the fifth respondent and Mr.G.R.Swaminathan, learned Counsel takes notice for the sixth respondent. By consent, the Writ petitions are taken up for final disposal.

4.Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondents 1 to 3, the learned Counsel for the fifth respondent and the learned Counsel for the respondents 4 and 6.



5.It is pertinent to point out that these cases are filed and taken up for hearing on the date, on which, the function is to be conducted and also at the neck of the moment.

6. The civil rights of parties and the disputed question of fact cannot be the subject matter in the writ petition.

7.The learned counsel for the respondents 1 to 3 submitted that the place where the function is to be celebrated has remained explosive and as there are rival claims between the parties to conduct the function, it is appropriate to merit the fourth respondent to conduct 4th day Mandagapadi i.e., on 14.06.2016 as otherwise breach of peace and bloodshed cannot be avoided.

8.The prayer in the writ petition in W.P.(MD).No.10434 of 2016 itself is that either the petitioner must be permitted to conduct the 4th day Mandagapadi and in the alternative to direct the fourth respondent themselves to conduct the same.

9.The learned counsel appearing for the 4th respondent submitted that till the claim of respective parties are determined in appropriate proceeding by the appropriate forum, it would be in the interest of justice and in the maintenance of law and order that the fourth respondent must be allowed to discharge the responsibility of 4th day Mandagapadi and that if that is entrusted to the fourth respondent, the performance of the same without any discrimination will be ensured by the fourth respondent.

10.The learned counsel appearing for the sixth respondent vehemently opposed the petitions contending that as per the Will, it is the sixth respondent, who is entitled to perform the 4th day Mandagapadi and that these writ petitions cannot be entertained as the Court has no jurisdiction to decide the issue in the writ petition.

10.1. The learned counsel for the other contesting parties would point out that the person, who would be competent to perform the 4th day Mandagapadi is the male persons in the family and it is not stated to be male descendents and therefore, it is a subject matter of interpretation and determination by the competent authority and till such time, the sixth respondent cannot be permitted to perform the 4th day Mandagapadi.

11.Admittedly, there is no declaration by any Civil Court that the sixth respondent is entitled to perform the 4th day Mandagapadi. When there is a disputed question as to who is entitled to perform the 4th day Mandagapadi, whether it is the petitioner in W.P.(MD).No.10434 of 2016 or the petitioner in W.P.(MD).No.10438 of 2016 or the sixth respondent in both the writ



petitions, without the dispute being resolved by a competent forum prudence would dictate that it is the fourth respondent, who can alone be permitted to perform the same.

12. It is also brought to the notice of the Court that there was a compromise on 08.06.2016 in which it was agreed that until a workable solution is arrived at between all the parties, for the year 2016 Mandagapadi will be conducted by the 4th respondent Devasthanam.

13. When it is submitted by the learned counsel appearing for the respondents 1 to 3 that quite often during function times, there is breach of peace resulting in injury to the life and limb of the people, the contesting parties should have approached the appropriate forum in time, if really their interest is in conducting the function in a peaceful manner. Happiness, harmony and ultimate peace is the aim of conducting any function. If the consequences of conducting the function would not result in the same and diametrically opposite consequences are expected, this Court cannot shirk the responsibility, close the doors of this Court by refusing access to justice when the life and limb of the people in the entire village is at the threshold of risk. Admittedly, this does not mean that this Court by exercising writ jurisdiction would intervene in a disputed question of law.

14. It is made clear that the ultimate right of the parties would be decided only by the competent forum and permission granted to the fourth respondent to conduct the same is without prejudice to the rights of the parties to get their rights determined in an appropriate forum. This Court cannot think of any other mode of disposal when the petitions are placed for hearing at the last minute.

15. Under such circumstances, without prejudice to the rights of any of the parties to establish their rights before the competent authority, the fourth respondent in both the writ petitions is permitted to conduct the function for the year 2016 on 14.06.2016. It is for the parties to seek their remedy before the appropriate forum.

16. The Writ Petitions are disposed of with the above direction. No costs. Connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

/True Copy/



To

1.The District Collector,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Sivagangai.

4.The Inspector of Police,
Aaravayal Police Station,
Aaravayal.

+1cc to Mr.J.Anandkumar, Advocate, Sr.No.30077

+1cc to Mr.S.Manikandan, Advocate, Sr.No.30066

+2cc to Mr.T.Srinivasa Raghavan, Advocate, Sr.No.30206 & 30207

+3cc to Mr.N.Ramji, Advocate, Sr.No.30748

mj/gcg

JM/GSV-PM/SAR-I/14.06.2016/6P-12C

WP (MD) Nos.10434 & 10438 of 2016
14.06.2016