



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].Nos.14238 and 16971 of 2016

and

W.M.P.(MD).Nos.10639 and 10640 of 2016

in W.P.(MD).No.14238 of 2016

and

W.M.P.(MD).No.12295 of 2016 in

W.P.(MD).No.16971 of 2016

W.P.(MD).No.14238 of 2016:

V.Aurmai Durai

: Petitioner

Vs.

1.The District Collector,
Ramanathapuram District.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

4.The Tahsildar,
Paramakudi, Ramanathapuram District.

5.The Inspector of Police,
Nainarkoil Police Station,
Paramakudi Taluk,
Ramanathapuram District.

6.Sathiah

7.Arumugam

8.Ganapathi

9.Krishnan

10.S.Sivasubramaniyan

11.Kasivel

12.V.Balamurugan

13.Chithambaram

14.Ganeshan

15.Sivasangaran

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D/o.Ramu

17.Selvaraj



18.Chellakkannu
19.Annapuram
20.Shanmugam
21.Selvi
22.Palaniselvi
23.Panchavarnam
24.Rajadhesingu
25.Vijaya
W/o.Sakthivel
26.Sivasangaran
27.Puranam
28.Boopathy
29.Pushbam
30.Mariyammal
31.Muthu

: Respondents

(R10 to R31 impleaded, as per the order of this Court, dated 12.09.2016, made in W.M.P.(MD).No.11839 of 2016)

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 5 to take immediate steps to further the installation of idol in the newly constructed Mariyamman Temple at S.Siruvayal Village, Paramakudi Taluk, Ramanathapuram District, in Government Natham Promboke land comprised in Survey No.489/1 by one of the groups under the leadership of the respondent Nos.6 to 9 and their henchmen, to the exclusion of other groups.

For Petitioner : Mr.R.Murugan

For respondents : Mr.M.Govindan,
1 to 5 Special Government Pleader

For respondents 6 to 9 : Mr.C.K.M.Appaji

For respondents 10 to 31 : Mr.A.Gandiappan

W.P.(MD).No.16971 of 2016:

Arumugam

: Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.



4.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

5.The Inspector of Police,
Nainarkoil Police Station,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant permission to the petitioner to conduct Kumbabisekam to Arulmigu Muthumariamman Temple, enshrined at Gramanatha Survey No.49/1, Nadukudiyiruppu Village, Paramakudi Taluk, Siruvayal and Post, Ramanathapuram District on 16.09.2016.

For Petitioner : Mr.C.K.M.Appaji

For respondents : Mr.M.Govindan,
1 to 5 Special Government Pleader

COMMON ORDER

[Order of the Court was made by S.NAGAMUTHU, J.]

W.P.(MD).No.14238 of 2016 has been filed by one Mr.V.Aurmai Durai as a Public Interest Litigation seeking a direction to the respondents 1 to 5 to take immediate steps to ensure that the respondents 6 to 9 do not exclude a group of people viz., respondents 10 to 31, residing at S.Siruvayal Village, from participating in the Mariyamman Temple Kumbabisheka festival at S.Siruvayal Village, Paramakudi Taluk, Ramanathapuram District in Survey No.489/1.

2.W.P.(MD).No.16971 of 2016 has been filed by one Mr.Arumugan, who is the 7th respondent in W.P.(MD).No.14238 of 2016, for a Mandamus, directing the official respondents to grant permission to him to conduct Kumbabisekam of Arulmigu Muthumariamman temple, situated in Survey No.49/1, Nadukudiyiruppu Village, Paramakudi Taluk, Siruvayal and Post, Ramanathapuram District.

3.Since common issues are involved, both the writ petitions were heard together.

4.The learned counsel appearing for the petitioner in W.P.(MD).No.14238 of 2016 by taking us through the affidavit filed in support of the petition would submit that a total number of 22 families have been excluded by the respondents 6 to 9 from participating in the proposed Kumbabisheka to be celebrated on 16.09.2016 for the Mariyamman Temple at S.Siruvayal Village. They also do have right to participate in the same.

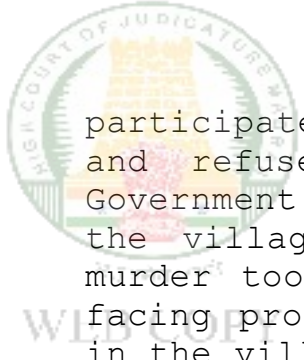


5.The learned counsel appearing for the petitioner in W.P.(MD).No.16971 of 2016 and the 7th respondent in W.P.(MD).No.14238 of 2016 would submit that the respondents 6 to 9 in W.P.(MD).No.14238 of 2016 have no objection for the petitioner in W.P.(MD).No.14238 of 2016 and other villagers, including the above said 22 families, to participate in the Kumbabishekam to be held on 16.09.2016. The said statement is recorded.

6.The learned Special Government Pleader appearing for the official respondents would point out that an interim order was issued by this Court in W.P.(MD).No.14238 of 2016 on 02.09.2016, wherein at paragraph No.3, it is directed as follows;

"3.It is reported that the atmosphere prevailing in S.Siruvayal Village, Paramakudi Taluk, Ramanathapuram District, is very fragile and that it can go out of hand at any moment. We sincerely hope and trust that in the name of performing Kumbabhishekam to a local temple, people will not lose their balance and wisdom and allow tempers to fly. However, to ensure that no injustice is caused to any of the contesting sides, the Tahsildar, Paramakudi Taluk, Ramanathapuram District and the Sub Divisional Police Officer, Ramanathapuram District, shall together visit the village and hold a meeting with all concerned and ensure that the equilibrium is maintained in all circumstances. Only if they are satisfied that the equilibrium is restored, they may allow the Kumbabhishekam of the temple to take place and all persons interested in participating therein should be permitted to do so and no one shall be prevented from participating therein. If for any reason, the Tahsildar and the Sub Divisional Police officer are of the opinion that the delicate equilibrium can slip away at any moment which might even lead to violence in the village, in such an event they shall order for postponement of the Kumbabhishekam festival itself by an appropriate length of time. If on the other hand, they are satisfied that by allowing all the interested parties to participate therein, the peace and tranquility of the locality is not going to be disturbed, they may not prevent the Kumbabhishekam from taking place."

7. The learned Special Government Pleader would further submit before the above interim order, on 11.08.2016 a peace committee meeting was held by Tahsildar, Paramakudi, in which the petitioner in W.P.(MD).No.14238 of 2016 also



participated along with a group of men, but he boycotted the same and refused to sign in the compromise. The learned Special Government Pleader would next submit that there are two groups in the village and that in connection with the temple affairs, a murder took place in the year 2009, in which 12 accused are now facing prosecution. It is because of the same, there is tension in the village, he submitted.

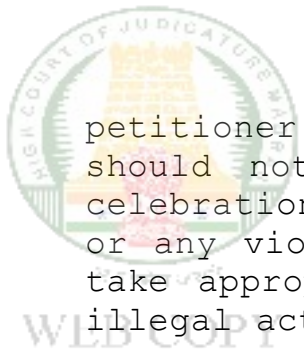
8. The learned counsel appearing for the petitioner in W.P. (MD).No.16971 of 2016 would submit that earlier, one Mr.Ganesan, who belongs to one of the 22 families mentioned hereinabove, filed a W.P.(MD).No.11807 of 2012 for a similar prayer; that was dismissed by a learned Single Judge of this Court, by order dated 31.03.2015 and as against the same, the petitioner therein filed a writ appeal and the same was also dismissed. He would further submit that having lost the said litigations in two Courts, Mr.Ganesan has instigated the petitioner, who also belongs to his group, to file the present writ petition in W.P.(MD).No.14238 of 2016.

9. We have considered the above submissions.

10. Admittedly, for a similar relief, earlier a writ petition in W.P.(MD).No.11807 of 2012 has been filed by one Mr.Ganesan and the same was dismissed by a learned Single Judge of this Court, by order dated 31.03.2015. The appeal filed against the same has also been dismissed. A perusal of the record would go to show that Mr.Ganesan had alleged that 22 families have been excluded from the temple affairs and to participate in the Kumbabishekam. That was negatived by the learned Single Judge. Now, the present writ petition in W.P.(MD).No.14238 of 2016 has been filed with the similar averments in respect of the same 22 families. Thus, it is crystal clear that this is the second round of litigation filed by the same group of people.

11. Since already the relief sought for by one of the persons from the said group has been negatived by two Courts, we cannot reopen the very same issue. As a matter of fact, the petitioner in the earlier writ petition viz., W.P.(MD).No.11807 of 2012 and the petitioner in W.P.(MD).No.14238 of 2016 are represented by the same counsel. But, unfortunately, in W.P.(MD).No.14238 of 2016 there has been nothing mentioned about the earlier litigations. Thus, it is crystal clear that the petitioner in W.P.(MD).No.14238 of 2016 has not come forward with clean hands.

12. For these reasons, we are unable to grant the relief, as prayed for in W.P.(MD).No.14238 of 2016. Instead, we are of the view that we can only issue a direction to the respondents in the Kumbabishekam including the petitioner and the respondents 10 to 31 in W.P.(MD).No.14238 of 2016. At the same time, either



petitioner in W.P.(MD).No.14238 of 2016 or his group of people should not cause any disturbance to law and order or to the celebration of Kumbabishekam. If any such disturbance is caused or any violence is indulged in, the Police will be at liberty to take appropriate action against the person, who indulges in such illegal activities.

13. The petitioner in W.P.(MD).No.16971 of 2016 is at liberty to make necessary application forthwith to the Superintendent of Police, Ramanathapuram District seeking bandobust and the Superintendent of Police, Ramanathapuram District shall provide adequate police bandobust in the village for the celebration of Kumbabishekam scheduled to be held on 16.09.2016 and ensure that there is no disturbance to the law and order situation in the village.

14.Both the Writ Petitions are accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(Cs-I)

/True Copy/

Sub Assistant Registrar.

To

- 1.The District Collector, Ramanathapuram District.
- 2.The Superintendent of Police,Ramanathapuram District,
Ramanathapuram.
- 3.The Revenue Divisional Officer,Paramakudi,
Ramanathapuram District.
- 4.The Tahsildar,Paramakudi, Ramanathapuram District.
- 5.The Inspector of Police, Nainarkoil Police Station,
Paramakudi Taluk, Ramanathapuram District.

+2CC to M/S.C.K.M.Appaji, Advocate, SR.No. 51778, 51779

+1CC to M/S.A.Gandiappan, Advocate, SR.No. 51818

+1CC to M/S.R.Murugan, Advocate, SR.No. 51817

+1cc to the Special Government Pleader, in SR.51973

Common Order made in
W.P.[MD].Nos.14238 and 16971 of 2016
Dated: 12.09.2016

gcg

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