



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2016

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P. [MD] .No.24174 of 2016
and
W.M.P. (MD) .No.17459 & 17460 of 2016

S.Jayaprakash

.. Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional officer,
Padmanabhapuram,
Kanyakumari District.

3.The Assistant Superintendent of Police,
Thucklay, Kanyakumari District.

4.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

5.Sri Sapthamathargal Thirukovil,
rep. by its Authorised person,
Vinil Kumar,
S/o.Thanga Nadar,
Aramannam, Charuppalloor Post,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 4th respondent, dated 10.12.2016 and quash the same and consequently direct the respondents to accord permission and provide police protection to the petitioner's Christmas celebration scheduled on 25.12.2016 at Survey No.119/4A, Thumbacode Village, Kalkulam Taluk, Kanyakumari District.



For petitioner : Mr.N.Dilipkumar
For respondents 1 to 4 : Mr.N.S.Karthikeyan,
Addl. Government Pleader
For 5th respondent : Mr.K.Mahendran

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ORDER

[Order of the Court was made by **R.SUBBIAH, J.**]

The present writ petition has been filed challenging the order passed by the fourth respondent, dated 10.12.2016, wherein the request of the petitioner to provide permission and Police protection for the Christmas Celebration scheduled on 25.12.2016 at Survey No.119/4-A, Thumbacode Village, Kalkulam Taluk, Kanyakumari District, has been rejected.

2.0. It is stated in the petition that the petitioner is a native and resident of Aramannam. He follows Christianity. He is a president of Zion Christhava Narpani Mantram and it is registered society under the Tamil Nadu Societies Registration Act. The petitioner's mother annually permitted the said society to use her private patta land situated in Survey No.119/4A, Thumbakodu Village, Kalkulam Taluk, Kanyakumari District to celebrate Christmas. The said society is celebrating Christmas celebration for the past several years. In the past years, the Police authorities had declined permission citing law and order problem. Their primary objection is that a Hindu group is also celebrating their pooja and Thiruvizha from 24th December to 27th December. In fact, the said Hindu group is performing their pooja at a Kavu situated at a distance of more than 300 meters from the place of celebration of society.

2.1. In the year 2011, the Police authorities refused to grant permission to the petitioner for Christmas celebration. Hence, the petitioner approached this Court in W.P.(MD).Nos.14414 and 14556 of 2011 and the said writ petition was disposed of, vide order dated 23.12.2011, directing both the parties to celebrate their respective functions, however, at different times. Following the said order, the Deputy Superintendent of Police, granted permission for the year 2012 also. Since the Police authorities declined permission for the year 2013, the petitioner again approached this Court in W.P.(MD).No.20422 of 2013 and this Court directed the Police authorities to accord permission as stated in the order on 23.12.2011. When the petitioner approached this Court for the year 2014 in W.P.(MD).No.20654 of 2014, this Court dismissed the said writ petition with liberty to the petitioner to



approach the police authorities with fresh application and subsequently, the Police authority granted permission for celebration.

2.2. During the last year also, the Police authorities rejected permission for celebration and against that order, the petitioner filed a writ petition in W.P.(MD).No.22678 of 2015. But, the same was dismissed by a learned Single Judge of this Court, vide order dated 22.12.2015. As against that order, a Writ Appeal has been filed in W.A.(MD).No.1589 of 2016 before this Court. This year also the Police authorities declined to grant permission. Hence, he has come up with the present writ petition.

3. When the matter came up for hearing today, the learned counsel appearing for the petitioner submitted that the petitioner would restrict the celebration on 25.12.2016 from 04.00 p.m. to 09.00 p.m. at 12 cents of private patta land in Resurvey No.119/4A, Thumbakodu Village, Kalkulam Taluk, Kanyakumari District. Apart from that, the petitioner has also given various undertakings, by filing an undertaking affidavit, wherein it is stated as follows;

"2.We submit that upon permitting us to celebrate Christmas on 25.12.2016, we undertake to abide by the following conditions:

a.We undertake that we shall confine our Christmas Celebrations within our private patta land - 12 cents in Resurvey No.119/4A, Thumbakodu Village, Kalkulam Taluk, Kanyakumari District.

b.We undertake to restrict our celebrations on 25.12.2016 for the time period from 04.00 p.m. to 09.00 p.m.

c.We undertake that we shall not erect or put up any form of decorative structures or materials in public road or public place and all decorations and arrangements will be strictly confined to our private land mentioned above.

d. We undertake that we will provide utmost co-operation for the peaceful celebration of the Christmas festival and the festivities will not spill over in such a manner to disturb the peace and tranquility of the public and that of the 5th respondent.

e. We undertake to restrict the decibel level of our public address system to be within the permitted decibel of the pollution control board.

f.We also undertake to be responsible for the peaceful celebration of the Christmas festival and events attached thereto.

3.We submit that we will abide by any other condition that may be imposed by this Hon'ble



Court.

4. We submit that all the undertakings and conditions will be strictly complied with by us and our members and participants in true letter and spirit.

5. We submit that this affidavit is filed in our personal capacity and also for and on behalf of our Zion Christhava Narpani Mantam, a registered body having registration No.36 of 2010 dated 02.06.2010 and the same shall be binding upon all the members of the society."

4. The learned counsel appearing for the fifth respondent opposed the prayer stating that they may be restricted to conduct public rally. The learned counsel appearing for the petitioner, on instructions, submitted that the petitioner society would not conduct any rally during the celebration on 25.12.2016. The said statement is recorded.

5. In view of the above undertakings given by the learned counsel for the petitioner, this Writ Petition is allowed and the impugned order passed by the fourth respondent is quashed and the fourth respondent is directed to grant permission to the petitioner society to celebrate the Christmas festival on 25.12.2016 from 04.00 p.m. to 09.00 p.m. at Resurvey No.119/4A, Thumbakodu Village, Kalkulam Taluk, Kanyakumari District, as per the above undertakings. However, it is made clear that if there is any deviation or violation, the petitioner will have to face contempt proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

2. The Revenue Divisional officer,
Padmanabhapuram,
Kanyakumari District.

3. The Assistant Superintendent of Police,
Thucklay, Kanyakumari District.



4.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

+1 cc to M/S.K.MANOCHARAN, Advocate SR.No.83255

+1 cc to M/S.N.DILIPKUMAR, Advocate SR.No.83276

W.P.[MD].No.24174 of 2016
Dated: 23.12.2016

SMA/SKS-RR/SAR-3/23.12.2016:5P/7C