

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.732 of 2017 and
WMP.No.771 of 2017

A/m.Pasubatheeswarar Iraipani Mandra
Arakkattalai rep. by its President
N.Allimuthu,
S/o.Late Nachamuthu,
11/2/8A, Nangavalli Main Road,
Mecheri Post,
Mettur Taluk, Salem District. Petitioner

Vs.

The Executive Officer,
A/m.Pasubatheeswarar Thirukovil,
Mecheri-636 453,
Mettur Taluk,
Salem District. Respondent

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 03.01.2017 passed by the respondent, quash the same and consequently, directing the respondent to permit the petitioner to carry on Kaniyachi right during Thiruvathiraj Pooja festival which is scheduled to be held on 10.01.2017 and 11.01.2017 at Arulmighu Soundranayagamman Samedas Pasubatheeswarar Thirukovil at Mecheri, Mettur Taluk, Salem District in the years to come.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.M.Maharaja,
Special Government Pleader (HR
&CE)

O R D E R

The Writ Petition is filed challenging the impugned order dated 03.01.2017 passed by the respondent and for consequential direction, directing the respondent to permit the petitioner to carry on Kaniyachi right during Thiruvathiraj Pooja festival which is scheduled to be held on 10.01.2017 and 11.01.2017 at Arulmighu Soundranayagamman Samedas Pasubatheeswarar Thirukovil at Mecheri, Mettur Taluk, Salem District in the years to come.

and prior to that, the petitioner was exclusively doing Kattalai during above mentioned festive seasons. After the formation of the registered Turst, the 'Kattalai' is being performed by carrying on Kaniyachi rights during Thiruvathirai festivals. While so, the respondent being the Executive Officer of the temple objected his right to perform the above said Kattalai in the year 2013. Therefore, the petitioner filed a suit in O.S.No.286 of 2013 against the respondent and others seeking permanent injunction restraining the defendants from performing 'Kaniyachi right' during Thiruvathirai festival of every year. Along with that suit, the petitioner filed I.A.1271 of 2013 seeking interim injunction and the same was granted on 12.12.2013 and the respondent was allowed to carry on the Kattalai during the year 2013.

3. The further case of the petitioner is that after the appearance of the defendants in the said suit, the I.A.No.1271/2013 was dismissed on merits by an order dated 16.06.2016 on the ground that the same will be decided only in the main suit. Against the same, the petitioner preferred an appeal dated 08.09.2016 along with I.A.No.21 of 2016 to condone the delay of 39 days which is pending on the file of the learned Sub-Court, Mettur.

4. It is also the case of the petitioner that pending the above suit and appeal, the petitioner submitted a petition dated 22.12.2016 to the Thakkar/Inspector of the temple seeking permission to carry on Kattalai during Thiruvathirai Thirukalyanam festival to be held on 10.01.2017 and 11.01.2017. The respondent received the petitioner's application on 26.12.2016, but, rejected the same by order dated 03.01.2017 on the ground that the suit filed by the petitioner was dismissed and except 'Kaniyachi right', the remaining rights have been given to the other Kattalaidars. After receipt of the said order on 06.01.2017, the petitioner submitted all the relevant documents to the respondent. But, his case was not considered. Hence, the present writ petition.

5. Learned Counsel for the petitioner would submit that in the impugned order, the respondent has stated that the claim of the petitioner could not be accepted due to the dismissal of the civil suit, which is erroneous. Hence, on that ground itself, the impugned order has to be set aside.

6. Learned Special Government Pleader appearing for the respondent would submit that in the impugned rejection order dated 03.01.2017, instead of mentioning that the interlocutory application was dismissed, the same was mentioned as though the suit was dismissed, which is purely a typographical error. He would further submit that since the I.A.No.1271/2013 was dismissed on merits by the civil court, the petitioner is not entitled for any relief. He would also submit that against the dismissal of the injunction petition, the petitioner has also preferred an appeal along with a condone delay petition and the same are pending. Therefore, he prays to dismiss the present writ petition.

7. Recording the submissions of the learned Special Government Pleader appearing for the respondent, the Writ Petition is dismissed. Further, it is made clear that this order will not give any right to the respondent to conduct the festival. No costs. Consequently, connected Miscellaneous Petition is also closed.

sd/-
Asst.Registrar (CS VI)

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Sub Asst. Registrar

To

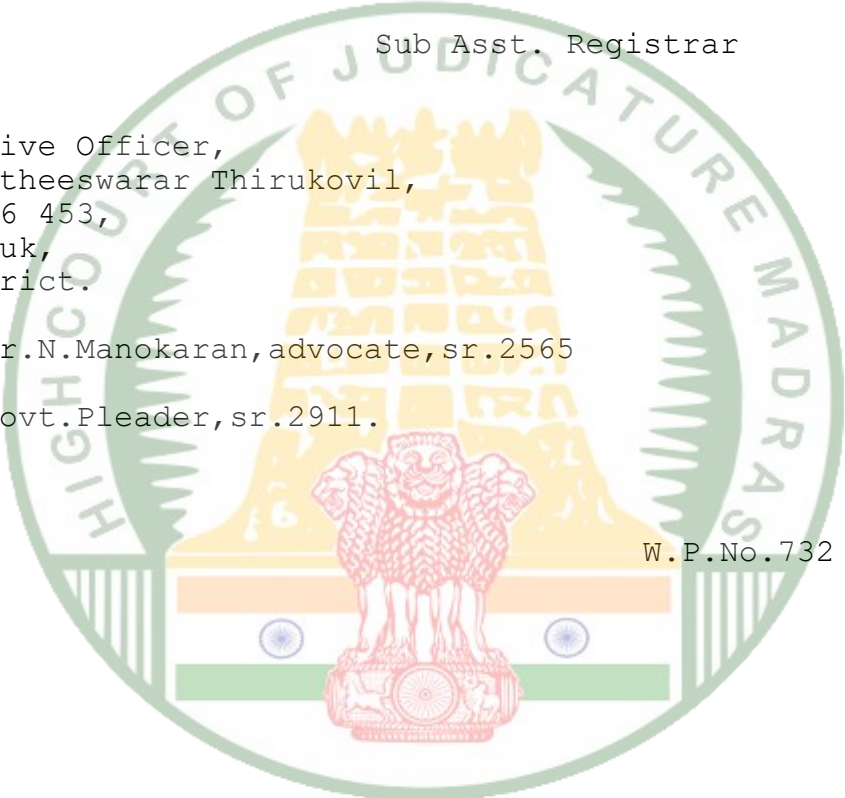
The Executive Officer,
A/m.Pasubatheeswarar Thirukovil,
Mecheri-636 453,
Mettur Taluk,
Salem District.

+1 cc to Mr.N.Manokaran,advocate,sr.2565

+1 cc to Govt.Pleader,sr.2911.

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W.P.No.732 of 2017



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