

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.3630 of 2017 and
W.M.P.Nos.3668 & 3669 of 2017

Arulmighu Muthu Vinayagar @ Mottai Vinayagar Temple
rep by its Executive Officer B.Nandhakumar
Avalurpettai, Melmalaiyanur Panchayat Union,
Gingee Taluk, Villupuram District. ... Petitioner

Vs.

- 1.The District Collector,
Villupuram District, Villupuram,
- 2.The Assistant Director of Panchayats,
Villupuram.
- 3.The Block Development Officer,
Melmalaiyanur Panchayat Union,
Villupuram District.
- 4.The Executive Officer/Panchayat President,
Avalurpettai, Gingee Taluk,
Villupuram District. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondents to permit the petitioner to conduct weekly Shanday on Wednesday of every week or on any other day of the week based on the petitioner's representation dated 10.02.2017.

For Petitioner : Mr.C.Umashankar

For Respondents: Mr.S.V.Doraisolaimalai,
Additional Government Pleader
(R1 to R3)
R4 - no appearance

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus directing the respondents to permit the petitioner to conduct weekly Shanday on Wednesday of every week

or on any other day of the week based on the petitioner's representation dated 10.02.2017.

2. According to the petitioner Temple, it owns a land having an extent of 3.20 acres comprised in Survey No.18/2 in the Village of Avalurpettai and the Temple has been conducting weekly Shanday (Cattle market) on Wednesday of every week for more than 50 years, for which the petitioner Temple was conducting public auction to collect toll/entry fee from the participants in the weekly Shanday. Further according to the petitioner, from and out of the said major income only, the management of the Temple has been meeting out the expenses of regular poojas, abhisekhams, periodical temple festival and for daily works. The Temple has sought for permission from the 1st respondent for conducting weekly Shanday on Wednesday of every week or on any other day that the District Collector would fix. Further, according to the petitioner, it is essential that there is no break in the tradition and the 1st respondent is vested with the authority to grant such permission. In these circumstances, the petitioner gave a representation to the 1st respondent dated 10.02.2017 for the grant of permission.

3. The 4th respondent filed their counter disputing the case of the petitioner and in paragraph-9, the 4th respondent has stated that the petitioner Temple has not obtained any permission for conducting weekly Shanday and the Village Panchayat has also not given any permission for conducting the Shanday. Further, the 4th respondent has stated that the weekly Shanday conducted by the 4th respondent alone has sanctity of law since the authority viz., the District Collector's permission is necessary for conducting the weekly Shanday in a Panchayat as required under Section 147 (2) of Panchayat Act 1994.

4. Mr. C. Umashankar, learned counsel appearing for the petitioner submitted that since the petitioner Temple has given a representation to the 1st respondent on 10.02.2017, the 1st respondent may be directed to consider the petitioner's representation and pass orders, after giving notice to all the necessary parties, in accordance with law.

5. Mr. S. V. Doraisolaimalai, learned Additional Government Pleader taking notice for the respondents 1 to 3 submitted that the 1st respondent may be directed to consider the petitioner's representation in accordance with law, after giving notice to all the necessary parties.

6. Having regard to the submissions made by the learned counsel on either side, taking into consideration the limited prayer sought for in the Writ Petition, without expressing any opinion with regard to the merits of the case, I direct the

petitioner to give a fresh application to the 1st respondent within one week from the date of receipt of a copy of this order and the 1st respondent is directed to consider the same and pass orders, after giving notice to all the necessary parties, on merits and in accordance with law, within a period of four weeks from the date of submission of the application by the petitioner Temple.

7. With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Villupuram District, Villupuram,
2. The Assistant Director of Panchayats,
Villupuram.
3. The Block Development Officer,
Melmalaiyanur Panchayat Union,
Villupuram District.
4. The Executive Officer/Panchayat President,
Avalurpettai, Gingee Taluk,
Villupuram District.

+1cc to M/S.C.Umashankar, Advocate Sr.40199
+1cc to the Government Pleader Sr.39935

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