



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDARCRL.O.P.(MD)No.13603 of 2017

RM.Ponnalagu Pattar

: Petitioner

-Vs-

1.The Deputy Superintendant of Police,
Thirupathur, Sivagangai District.

2.The Sub Inspector of Police,
Kandavirayanpatti Police Station,
Sivagangai District.

3.The Joint Commissioner,
HR & CE Department,
Sivagangai.

4.Muthu Vairava Battar.

: Respondents

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to direct the respondents 1 & 2 not to interfere with the civil dispute till the conclusion of the subject suit, which is kept pending before the learned Sub Court, Sivagangai in O.S.No.140 of 2016.

For Petitioner : Mr.RM. Arun Swaminathan

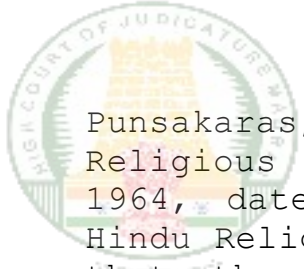
For Respondent Nos.1to3 : Mr.K.S. Duraipandian
Additional Public Prosecutor.

For respondent No.4 : Mr.G.Guha Seela Rupan

O R D E R

The Criminal Original Petition is filed for issuing a direction to the respondents 2 and 3 not to interfere with the civil dispute till the conclusion of the suit which is kept pending before the Sub Court, Sivagangai in O.S.No.140 of 2016.

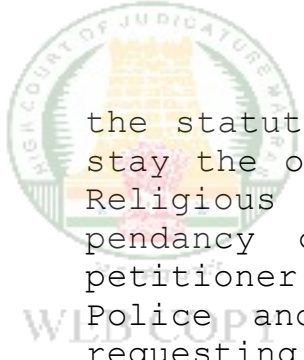
2.The petitioner states that the temple known as Arulmigu Jeyangonda Nayagi @ Poonkuntra Nayagi Amman Temple, Magipalanpatti, Thiruppathur Taluk, Sivagangai District is a public Temple and that the petitioner's ancestors were declared as hereditary trustees of the said temple. It is also stated that the persons who were declared as hereditary trustees by the Department were also permitted to perform the Poojas and



Punsakaras, by the order of Deputy Commissioner for Hindu Religious and Charitable Endowments Department in O.A.No.19 of 1964, dated 24.08.1966, under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It is stated that the petitioner was subsequently elected as one of the trustees of the temple by Hindu Religious and Charitable Endowments Department by order dated 18.06.2004 and that subsequently, due to some complaint against the petitioner by interested persons, an order was passed against the petitioner. Though the removal of petitioner as hereditary trustee was challenged before the Commissioner of Hindu Religious and Charitable Endowments Department in A.P.No.26 of 2005 and the order was set aside by the Commissioner and the matter was again remitted to the Commissioner of Hindu Religious and Charitable Endowments Department to issue a fresh notice to the petitioner, it is stated that subsequently, the Commissioner of Hindu Religious and Charitable Endowments Department has passed an order dismissing the appeal in A.P.No.26 of 2005. After that a Writ Petition was filed by the petitioner in W.P.No.688 of 2015 before the Principal Bench. This Court directed the petitioner to file a civil suit. It was thereafter, the petitioner states that he has filed a suit in O.S.No.140 of 2016 on the file of the Sub Court, Sivagangai, challenging the order of Commissioner of Hindu Religious and Charitable Endowments Department confirming the removal of the petitioner from trusteeship.

3. During the pendency of the suit, Hindu Religious and Charitable Endowments Department has passed an order to suspend the hereditary trusteeship. It appears that the petitioner and others were directed to hand over the charge. Since the petitioner and others were removed from hereditary trusteeship the Hindu Religious and Charitable Endowments Department also seems to have given a representation to the Deputy Commissioner of Police, Thiruppathur, Sivagangai to take action against the removed trustees not to indulge in any Pooja or related affairs inside the temple. The Deputy Commissioner of Police also requested to prevent the removed trustees from the administration of the temple.

4. The petitioner admits that the suit filed by the petitioner is under Section 70 of Hindu Religious and Charitable Endowments Act and that the petitioner and other trustees were removed from the trusteeship in view of the serious allegations made against the petitioner and other trustees, while they were holding the administration as hereditary trustees. As against the order removing the petitioner from trusteeship, the petitioner and others have preferred an appeal in A.P.No.26 of 2005 and the petitioner's appeal was also subsequently dismissed. It is only ~~as against the order of Commissioner, Hindu Religious and Charitable Endowments Department, the statutory suit has been filed under~~ Section 70 of Hindu Religious and Charitable Endowments Act. When



the statutory suit is filed the civil Court has no power even to stay the operation of the order passed by the Commissioner, Hindu Religious and Charitable Endowments Department during the pendency of the suit. When that being the position the petitioner has given a representation to Deputy Commissioner of Police and the Inspector of Police, the Inspector of Police requesting them not to interfere with the civil dispute pending between the petitioner and Hindu Religious and Charitable Endowments Department. It is only stated that the respondents are trying to interfere with the civil dispute which is the subject matter of suit in O.S.No.140 of 2016 and that therefore, the petitioner has come forward with this petition.

5. The learned counsel appearing for the petitioner submitted that during the pendency of the suit in O.S.No.140 of 2016, on the file of the Sub Court, Sivagangai, the respondents cannot interfere with the right of the petitioner either to administer the temple or to conduct the pooja and other services inside the temple. This petition is nothing but abuse of process of law. The petitioner has approached the Commissioner, Hindu Religious and Charitable Endowments Department as against the removal of the petitioner and others from trusteeship and a final order had been passed by the Commissioner of Hindu Religious and Charitable Endowments Department dismissing the appeal preferred by the petitioner and others. When the statutory authorities have taken action under the provisions of Hindu Religious and Charitable Endowments Act, the right of the petitioner is to seek remedy only available to the petitioner under the Act. As pointed out earlier the petitioner and others have already filed statutory suit. Even the Sub Court has no power to grant any interim order staying the operation of the order passed by the Commissioner, Hindu Religious and Charitable Endowments Department under Section 70 of the Act.

6. Section 70 of the Hindu Religious and Charitable Endowments Department Act, reads and follows:-

70. Suits and Appeals: (1) Any party aggrieved by an order passed by the Commissioner-

(i) under Sub Section (1) or sub-section (2) of Section 69 and relating to any of the matter specified in Section 63, Section 64 or Section 67; or

(ii) under Section 63, Section 64 or Section 67 read with sub-section (i) (a), 2 or (4) (a) of Section 22 or under section 65 may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order, but it shall have no power to stay the order of the Commissioner pending the disposal of the suit.



(2) Any party aggrieved by a decree of the Court under sub-section (1), may, within ninety days from the date of the decree, appeal to the High Court.

7. The petitioner cannot be allowed to pursue either by giving representation to the police officials or by approaching this Court by a petition directing the respondents not to interfere with the civil dispute. The petitioner's plea that he is entitled to continue as a hereditary trustee has been negated by the Commissioner, Hindu Religious and Charitable Endowments Department. The petitioner has not produced the order passed by the Commissioner of Hindu Religious and Charitable Endowments Department dismissing the appeal filed by the petitioner and others.

8. From the averments stated in the petition it can be presumed that the petitioner's right or petitioner's claim that he is entitled to continue as hereditary trustee cannot be entertained. In view of the admission of the plaintiff in the suit that an order has been passed removing the petitioner and others from the hereditary trusteeship and the order of the Deputy Commissioner removing the petitioner and others from Trusteeship is also confirmed by the Commissioner of Hindu Religious and Charitable Endowments Department, the petitioner's remedy is only by filing a statutory suit which is pending. Till such time the suit is disposed of the petitioner and others have no right to claim any right which is contrary to the order passed by the Commissioner of Hindu Religious and Charitable Endowments Department. Even the civil Court has no right to grant any interim order suspending or staying the order passed by the Commissioner, Hindu Religious and Charitable Endowments Department.

9. In that view of the petition this Court has no reason to entertain this petition. This petition is nothing but abuse of process of law preventing the statutory authorities from enforcing the order passed by the authorities in accordance with law under the provisions of the Hindu Religious and Charitable Endowments Act. Accordingly, the Criminal Original Petition is dismissed.

10. The petitioner shall pay a cost of Rs.5,000/- (Rupees Five Thousand only) to the credit of the Hon'ble Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-I)



To

1.The Deputy Superintendant of Police,
Thirupathur, Sivagangai District.

2.The Sub Inspector of Police,
Kandavirayanpatti Police Station,
Sivagangai District.

3.The Joint Commissioner,
HR & CE Department,
Sivagangai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

5.The Section Officer,
Account Section,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.G.Guha Seela Rupan, Advocate Sr.No.82018

TRP

VB/SKN/RSK/SAR1/10/11/2017/5P/8C

CRL.O.P.(MD)No.13603 of 2017

09.10.2017