



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P (MD) No.13522 of 2017

WEB COPY

Panchatcharam

.. Petitioner

Vs.

1.The Superintendent of Police,
Pudukottai District,
Pudukottai.

2.The Inspector of Police,
Thirugokarnam Police Station,
Pudukottai.

3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments,
Pudukottai.

4.Balasubramanian,

5.Kamatchi

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to give necessary police protection to the petitioner to perform the service of Samiyaduthal and to take Karagam during 'Aadi 18 Festival' 03.08.2017 of Arulmigu Kamakshiamman Thirukoil, situated at Poosathurai Village, Pudukottai Taluk and District by considering the Petitioner's representation dated 10.07.2017.

For Petitioner	: Mr.M.Karunanithi
For Respondents	: Mr.A.K.Baskara Pandian
1 to3	Special Government Pleader
For Respondent 4	: Mr.G.Mathavan

O R D E R

This Writ Petition has been filed for issuance of a Mandamus to direct the respondents 1 to 3 to give necessary police protection to the petitioner to perform the service of Samiyaduthal and to take Karagam during 'Aadi 18 Festival' on 03.08.2017 of Arulmigu Kamakshiamman Thirukoil, situated at Poosathurai Village, Pudukottai Taluk and District by considering the Petitioner's representation dated 10.07.2017.

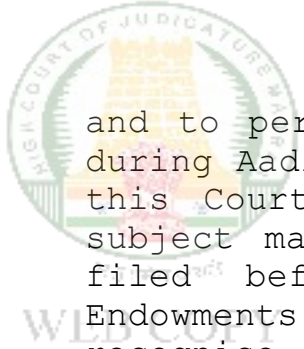


2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel appearing for the respondent 4.

3. It is stated that earlier the petitions in O.A.No.24 of 2010 and O.A.No.28 of 2010 were filed by the petitioner before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tiruchirappalli, under Section 63 (e) of the Hindu Religious and Charitable Endowments Act, 1959, claiming the right of samiyaduthal. The said petitions were allowed and it is stated further that the Commissioner, Hindu Religious and Charitable Endowments Department, has passed an order on 21.03.2017 confirming the order in favour of the petitioner. However, it is stated by the counsel for fourth respondent that the order passed by the Commissioner was purely on the basis of exercise of such right by the petitioner on temporary basis in the temple. Hence, it is further stated that a statutory suit has been filed. This statement made by the learned counsel for the fourth respondent is not admitted by the petitioner.

4. The learned counsel for the petitioner reiterated that no further appeal or suit has been filed as against the final order that was passed by the Commissioner, Hindu Religious and Charitable Endorsements Department. In these kind of matters, the dispute is not between individuals. Even the petitioner has not impleaded all the persons who are parties before the Joint Commissioner or before the Commissioner of Hindu Religious and Charitable Endowments Department. When it is stated that there is a dispute with regard to exercise of certain rights or claims, some privilege respect in temple, it cannot be disputed that the parties have remedy before the Hindu Religious and Charitable Endowments Department under Section 63(e) of the Act. Despite the fact that an order has been passed, the petitioner has to satisfy that the present representation of the petitioner is in tune with the order passed by the Commissioner, Hindu Religious and Charitable Endowments Department. Though the learned counsel for the respondent submitted that a suit has been filed, the details of the suit has not been furnished to this Court so as to consider the issue by referring to the Civil Suit. However, the relief of injunction restraining others from interfering with his right to celebrate the festival is outside the purview of Section 63(e) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In the representation of the petitioner dated 10.07.2017, the petitioner has admitted that no festival conducted for about 6 or 7 years in the past. The petitioner has arranged for conducting temple festival and seeks police protection for the conduct of festival.

5. With regard to the specific prayer in the petition that the petitioner wants a direction directing the respondent to give necessary police protection to the petitioner to conduct festival



and to perform the service of Sami Aaduthal and to take Karagam during Aadi festival on 03.08.2017, the petitioner cannot approach this Court, unless all the parties, who are interested in the subject matter, are made as parties. Secondly, the application filed before the Joint Commissioner, Hindu Religious and Endowments Department under Section 63 (e) of the Act only recognise right to Sami Aaduthal. It cannot be stated that the petitioner is entitled to conduct the festival as a trustee of the temple and no such right is discussed in the order relied upon by the petitioner. The specific right or privilege to perform samiyaduthal cannot be enlarged to enable the petitioner to claim any other right to celebrate or conduct festival on his own.

6. For all the above reasons, this Court is of the view that no right can be enforced by approaching this Court on the basis of the order passed by the Commissioner, Hindu Religious and Charitable Endowments Department in the proceedings above referred to. In that view of the matter, this Court is not inclined to entertain this Writ Petition. This Writ Petition is dismissed. However, cannot be construed to enable respondents to claim any right in respect of any temple festival, as no such right is projected or considered and the police shall not entertain the request claiming such right merely because the Writ Petition filed by the petitioner is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

/ True Copy /

Sub Assistant Registrar (C.S.)

To

1. The Superintendent of Police,
Pudukottai District, Pudukottai.
2. The Inspector of Police,
Thirugokarnam Police Station, Pudukottai.
3. The Assistant Commissioner,
Hindu Religious & Charitable Endowments, Pudukottai.

+1cc to M/S.G.MATHAVAN, Advocate SR.No.67423

+1cc to Special Government Pleader, SR.No.67961

SRM

MAS/SKN-RSK/SAR1:08.08.2017:3P-6C