



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.18240 of 2017

K.Perumal : Petitioner

. vs .

1. The District Collector,
Tirunelveli District.

2. G.Thankappan

3. Gurusamy : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the first respondent to consider the Petitioner's representation, dated 24.8.2017.

For Petitioner	: M/s.P.Bhaskar
For Respondent-1	: Mr.M.Govindan Spl. Govt.Pleader
For Respondents 2 and 3	: Ms.K.Abiya

O R D E R

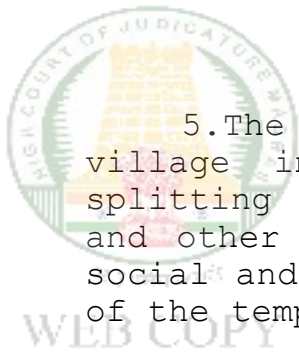
[Order of the Court was made by M.VENUGOPAL, J.]

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing first respondent to consider the Petitioner's representation, dated 24.8.2017.

2.Heard both sides.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.According to the Petitioner, he addressed a representation dated 24.08.2017 to the First Respondent as against the respondents 2 and 3. As a matter of fact, the representation relates to the Petitioner's community temple namely Arulmighu Muthumariamman Koil, Uthumalai Village. The temple, until last year had 100 members paying annual 'Vari' contribution.



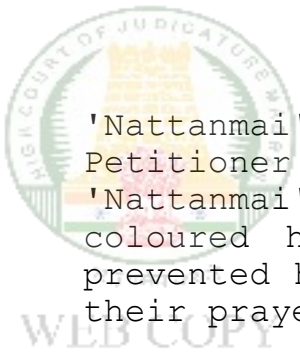
5.The stand of the Petitioner is that some miscreants in the village in respect of the village functions and administration are splitting venom along with the Respondents 2 and 3 as against him and other villagers, who are with him for the unity and peaceful social and lawful atmosphere in the functions and administration of the temple.

6.While that being so, on behalf of the villagers one Mahalingam had made a representation before the First Respondent on 29.11.2016 and filed a Writ Petition in W.P.No.707 of 2017, on the file of this Court as against the First Respondent to consider his representation relating to the removal of some stone slabs. In the aforesaid temple premises engraved with the names of respondents 2 and 3. The said Writ Petition is pending, after issuance of notice to the Respondents(including the Respondents 2 and 3).

7.The grievance of the Petitioner is that the Petitioner and his villagers are now socially boycotted by the Respondents 2 and 3 from entering into the afore-said temple. As a matter of fact, the Respondents 2 and 3 are using all unlawful ways of social boycott to abuse the Petitioner and others to quarrel with the Petitioner and others and to socially boycott the Petitioner and others from the temple functions by locking the temple premises at their whims and fancies to prevent the Petitioner and others from entering into the temple.

8. As a matter of fact, the Petitioner and those who are supporting the Petitioner fearing clash with the Respondents 2 and 3, are now staying out of the temple functions and thereby they are prevented entry from even offering their prayers inside the temple. Indeed, the Respondents 2 and 3 are leading a group of miscreants in the village from socially boycotting the Petitioner and others supporting them by not participating in the social functions and other rituals taking place at their home. The Petitioner and other villagers who are supporting him for the cause of temple functions have full and equal rights with that of the Respondents 2 and 3 over the temple entry. The Petitioner and other villagers on his side need duplicate keys of the temple gate lock to offer prayers inside the temple along with the entire villagers. In this connection, the Petitioner had made a representation through Registered Post with Acknowledgement Due, dated 24.08.2017 before the First Respondent seeking indulgence to form a Peace Committee Meeting in their village by inviting all the sides for the further temple functions. Since the Petitioner's representation, dated 24.08.2017 is still pending and has not seen the light of the day, the present Writ Petition is filed.

9.On behalf of the Respondents 2 and 3, it is represented that the Petitioner has not served sincerely to the community people during his tenure from the year 2005-2007 and further there is no public interest in the present Writ Petition, because of the fact that the Second Respondent as well as the Petitioner was acting as

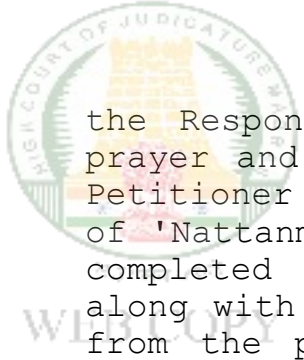


'Nattanmai' of their community people. It is represented that the Petitioner and his other men were thrown away from the post of 'Nattanmai' by the community people. Now, the Petitioner has coloured his representation as if the Respondents 2 and 3 had prevented him and others from entering into the temple for offering their prayers which is false and misrepresented one.

10. The Learned Counsel for the Respondents 2 and 3 contends that after taking charge of 'Nattanmai' and 'Vice Nattanmai' post from the year 2012, the Respondents 2 and 3 had taken all efforts along with their community people unanimously to reconstruct the temple and constructed it. Further, every year, the Respondents 2 and 3 were elected in the said post till 2016 by the community people. During their tenure, the Respondents 2 and 3 brought persons who were ex-communicated by the Petitioner and permitted them to offer their prayer in the temple.

11. Further, the Learned Counsel for the Respondents 2 and 3 brings it to the notice of this Court that the Petitioner and one K.Mahalingam who filed the W.P.(MD)No.707 of 2017 and other persons, have not paid any single paise or manual labour to the construction work of Arulmighu Muthumariamman Temple, Uthumalai village. However, the Petitioner had filed a Writ Petition to remove the name board of the Respondents 2 and 3 and others which is in the temple wall. The Writ Petitioners (in W.P(MD)No.707 of 2017) and the present Writ Petitioner (in W.P(MD)No.18240 of 2017) have sent a legal notice jointly on 01.03.2017 to the Respondents 2 and 3 and that the Respondents 2 and 3 cause a reply in a proper manner to their counsel address. After that, the Writ Petitioner and another Writ Petitioner namely, K.Mahalingam have remained silent for some time.

12. The Learned Counsel for the Respondents 2 and 3 proceeds to point out that originally, the Petitioner and his family members, who are on his side denied to pay the 'Vari' for the temple Kodai for the year 2017. Further, when the Respondents and other community people asking them at their house, to pay it. Further, the present 'Nattanmai' or community elders are ready to receive it to the next year Kodai. The Learned Counsel for the Respondents 2 and 3 submits that no one prevent the Petitioner and others from paying the 'Vari' and no one restrict them from entering into the temple for offering their prayers. All along, the Petitioner's family members were entering into the temple and worshipping the Goddess without any hindrance. That apart, the Respondents 2 and 3 have not got any key of the temple as stated in the Petitioner's affidavit and as averred in the Petitioner's representation. The key is only in the hands of the Poojari of the temple and he will open the sanctum sanctorum on auspicious days and worship the Goddess for the welfare of the people. At that time, the Petitioner's family members are also offering their prayers regularly. The Respondents and their family members are also offering their prayers like that of the Petitioner. Most importantly, no discrimination has arisen till now. In short,



the Respondents 2 and 3 had never interfered with the devotee's prayer and the faith of them in the temple. The ill-motive of the Petitioner is only to remove the Respondents 2 and 3 from the post of 'Nattanmai' of their community. The Respondents 2 and 3 had also completed the temple Kodai for the year 2017 in a grand manner along with majority of community people and relieved the Petitioner from the post of 'Nattanmai'. As of now, others persons were elected by the community people to serve as 'Nattanmai' including other Executive Members, on 25.08.2017. As such, the Petitioner cannot blame the Respondents 2 and 3 by pointing one reason or other. Therefore, the present Writ Petition is liable to be dismissed.

13. On a careful consideration of the respective contentions advanced on both sides, this Court is of the considered view that the Respondents 2 and 3 had clearly mentioned in their counter and had taken a crystalline stand that the Petitioner and others are not ex-communicated from the village and in fact, the Petitioner's family members and others are also offering their prayers in the temple and worship the Goddess for the welfare of the people. Even the Respondents 2 and 3 and their family members are also praying like that of the Petitioner. Further, it is a clear-cut stand of the the Respondents 2 and 3 that no discrimination has arisen till now. That apart, the Respondents 2 and 3 had clearly mentioned in their counter that they never interfered with the offerings made by the Petitioner and his family members in the temple.

14. Recording these facts, the Writ Petition stands disposed of, directing the Petitioner to work out his remedy in regard to the handing over of key by the concerned person in respect of the temple in question before the competent forum by filing a Civil Suit by raising all factual and legal pleas, if so desired/advised, of course, in the manner known to law and in accordance with law. No costs.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To
The District Collector,
Tirunelveli District.

+ 1 CC TO Mr.P.BHASKAR, ADVOCATE IN SR No. 85010
+ 1 CC TO Mr.K.ABIYA, ADVOCATE IN SR No. 84513

VSN

TE/KP/SAR-IV : 10/11/2017 : 4P/4C

<https://hcservices.ecourts.gov.in/hcservices/>

ORDER MADE IN
W.P. (MD) No.18240 Of 2017
31.10.2017