



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBRMANIAN

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Writ Petition(MD)No.2477 of 2013andM.P(MD)No.1 of 2013

N.Selvaraj

... Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Superintendent of Police,
Theni District.

3.The Revenue Divisional Officer,
Periakulam Taluk,
Theni District.

4.The Tahsildar,
Periakulam Taluk,
Theni District.

5.The Inspector of Police,
Devadanapatti police Station,
Periakulam Taluk,
Theni District

6.Chellaiah

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents 1 to 5 from installing the statue of God Karuppasamy in and around the premises of God Maduraiveeran and Goddess Pattalaman in the Jeyamangalam Village, Periakulam Taluk, Theni District which would disturb peace and tranquility within the community.

For Petitioner : Mr.M.Arun Murugan

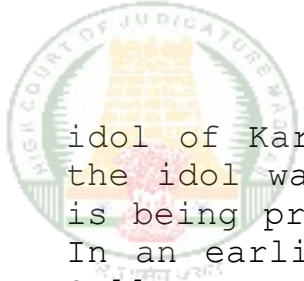
For Respondents 1-5 : Mr.S.Kumar

Additional Government Pleader.

For 6th Respondent : Mr.M.Subash Babu

ORDER

From the facts narrated in the affidavit filed in support of the writ petition and upon hearing the arguments of the learned counsel on either side, it is seen that the dispute relates to the existence of certain deities in the temple. While the petitioner would claim that the temple was meant for Sree Madurai Veeran and Pattalammal, the sixth respondent would claim that there was an



idol of Karuppasamy and in the guise of performing Kumbabishekam, the idol was removed and the sixth respondent would claim that he is being prevented from installing of the said idol in the temple. In an earlier writ petition, this Court had directed the District Collector to enquire into the representation made by the sixth respondent on 06.09.2011 and pass appropriate orders on merits and in accordance with law. In this writ petition, the interim order has been granted directing the District Collector not to pass final orders. The existence or otherwise of an idol in a temple is a factual aspect which cannot be decided in the proceedings under Article 226 of the Constitution of India.

2.It is also seen that one Karupiah had filed a writ petition in W.P(MD)No.7897 of 2009 wherein he had sought for mandamus to direct the respondents 1 to 4 therein namely, the District Collector, Theni, the Superintendent of Police, Theni, the Tahsildar, Periyakulam Taluk and the Inspector of Police, Devadanapatti Police Station to take action against the respondents 5 to 11 for excommunicating him and his 25 family (pangalies).

3.In the said writ petition, this Court has opined that the existence of the idols or otherwise and the right to worship cannot be gone into in the proceedings under Article 226 of the Constitution of India and has dismissed the said writ petition. Therefore, even according to the sixth respondent, he has been prevented from installing the idol of Karuppasamy in the temple in question but the petitioner would contend that the idol of Karuppasamy was never there and the sixth respondent attempted to create a new practice by installing idol in question. Hence, these are questions of facts which will have to be decided only before the competent Civil Court.

4.Therefore, leaving it open to the parties to approach the competent Civil Court, this writ petition is dismissed. It is made clear that the District Collector need not pass any orders pursuant to the mandamus issued by this Court in W.P.(MD)No.13771 of 2011, since it is found that all those questions will have to be decided by the competent Civil Court. It is also made clear that if there is any scramble of possession between the parties, it is open to the authorities to take appropriate action under law including the closure of the temple. No costs. Consequently, M.P (MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(C)

/TRUE COPY/

Sub Assistant Registrar



2.The Superintendent of Police,
Theni District.

3.The Revenue Divisional Officer,
Periakulam Taluk,
Theni District.

4.The Tahsildar,
Periakulam Taluk,
Theni District.

5.The Inspector of Police,
Devadanapatti police Station,
Periakulam Taluk,
Theni District

+1 cc to M/R.M.ARUN MURUGAN, Advocate, SR.NO:13548

+1 cc to M/S.SPECIAL GOVERNMENT PLEADER, SR.NO:13719

SMS

SVA/PM/PN/22.03.2017/3P/8C

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and
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