

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.04.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.9402 of 2018 and
WMP.Nos.11214 and 11215 of 2018

M.Kale Gowdu

...Petitioner

Versus

1. The District Collector,
Office of the District Collectorate,
Ramapuram Post, Krishnagiri Town,
Krishnagiri Taluk and District.
 2. The Sub-Collector,
Office of the Sub-Collector,
Hosur, Krishnagiri District.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned orders passed by the 2nd respondent dated 15.4.2017 in Proceedings in C.No.121/2017(B1) under Section 138 (2) Cr.P.C. and order in M.C.No.148/2017/B1 dated 29.12.2017 and quash the same.

For Petitioner : Mr.V.Subramanian

For Respondents: Mr.I.Sathish,
Additional Government Pleader

O R D E R

This Writ Petition has been directed against the impugned order dated 15.4.2017 passed by the Sub-Collector, Office of the Sub-Collector, Hosur, Krishnagiri District/the 2nd respondent herein to quash the same and to pass further orders.

2. The matter is listed today under the caption, ''for withdrawal''. However, a perusal of the impugned order dated 15.4.2017 discloses that it is specifically held by the 2nd respondent in the impugned order that the Village Administrative Officer has stated that the people of both Ondur and Beernapalli Villages have been using the pathway to the temple over 100 years and this apart, he has also recorded the statement of the Tahsildar Denkanikottai who also deposed that the pathway to the temple has been in existence for more than 100 years as per the village

records and the petitioner herein has closed the pathway to the temple intentionally by putting fence which has created law and order problem between the said two villages, namely, Ondur and Beernapalli. Finally, on the basis of an enquiry, the Sub-Collector has come to the conclusion that the petitioner has no right whatsoever to obstruct the public pathway. Accordingly, he has directed the petitioner to remove the fence and throw open the public pathway for devotees of the temple. This order has been passed by virtue of a direction given by the Hon'ble First Bench of this Court in its order dated 22.9.2017 passed in W.P.No.24828/2017.

3. It is also pertinent to extract the relevant portion of the said order hereunder:

'12. If, for some reason, a peaceful/amicable solution does not come about as hoped, the TNHRCE Department officials, particularly, the Commissioner, Jurisdictional Assistant Commissioner and Thakkar/Pit Person/Executive Officer of said temple, who are respondents 3, 4 and 8 respectively before us shall initiate proceedings under the TNHRCE Act or any other appropriate applicable Act (by acting in tandem with respondents 1 and 2) and restore access to the said public temple in a manner known to law.

13. To be noted, in the light of the indisputable position that access to a public temple cannot be blocked by anybody, we are passing this order, though the individual, referred to supra in this order, has not been arrayed as one of the respondents in this public interest litigation.

14. The Registry is directed to send a copy of this order to the aforesaid individual, namely, Kalegowdu, son of Munegowdu, Ondoor Village, Denkanikottai Taluk, Krishnagiri District.

The writ petition is disposed of accordingly. No costs.'

Therefore, when the impugned order has been rightly passed on the basis of the direction issued by the Hon'ble First Bench of this Court in W.P.No.24828/2017 dated 22.9.2017, this Court has no hesitation to uphold the impugned order since no one can find fault with the same. Accordingly, the impugned order is upheld.

4. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Office of the District Collectorate,
Ramapuram Post, Krishnagiri Town,
Krishnagiri Taluk and District.
2. The Sub-Collector,
Office of the Sub-Collector,
Hosur, Krishnagiri District.
3. M. Kalagandhi
S/o Late Muni Gowdu
Beeranapalli Village
Kottaiyur Post
Denkanikottai Taluk
Krishnagiri District.

+1 CC to Mr.B. Subramani, Advocate sr 29644.
+1 Cc to Govt. Pleader sr 29953.

WEB COPY

W.P.No.9402 of 2018

KK (CO)
SP (23/04/2018)