

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.20981/2018 & WMP.Nos.24624 & 24625/2018

Haja Noordeen Sabhi @ Alhaj
Dr. S.Syed Kamil Sahib

Petitioner

Vs

- 1.The Adhoc Board of Administrators
Nagore Dargah Interim Adhoc Administrators
Nagore Dargah, Nagore 611 002.
2. Tamil Nadu Wakf Board
Jaffar Syrang Street, rep. By its Chairman,
Vallal Seethakathi Nagar
Chennai-1.
- 3.The Superintendent of Wakfs
Wakf Superintendent Office
27, Court Road, Diwan Nagar
Thanjavur Town and District.
- 4.The Manager
Nagore Dargah
Nagore 611 002
Nagapattinam District.

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records in Na.Ka.No.57/2018/A2 dated 11.08.2018 on the file of the 1st respondent/ Nagore Dargah Interim Adhoc Administrators, Nagore Dargah, Nagore-611002, quash the same and consequently, permit the petitioner or his representative to do the rituals like doing sandal mixing, sandal supplying for pasting, purdha receiving, mouluth reciting, reciting of holy fathihas, conducting Urus Melas, receiving portion of sandal That rook and receiving the holy empty sandalpot for the 8th Trustees family in the ensuing annual Urus of Chinnadavar of Nagore Durgha in

the Main Sandal Pasting ceremony scheduled to be held on 14.08.2018.

For Petitioner : Mr.Haja Mohideen Gisthi
For Respondents : Mr.V.Lakshminarayanan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.V.Lakshminarayanan, learned counsel accepts notice on behalf of the respondents.

2 The litigation pertains to Nagore Dargah which is having a long and chequered history and the facts leading to the series of litigations have been narrated in detail and in extenso in the common judgment dated 08.06.2018 made in WA.No.1640/2016 etc., batch [The Managing Trustee rep.by the Board of Trustees, Nagore Dargah, Nagore-611002 Vs. Haja Noordeen Sahib @ Alhaj Dr.S.Syed Kamil Sahib and others] reported in 2018 [3] CTC 801 : 2018 [3] LW 296 : 2018 [5] MLJ 360 and therefore, it is unnecessary to restate the facts once again.

3 The petitioner herein, pending disposal of WP.No.7272/2014, filed MP.Nos.1 and 2/2014 for certain directions and vide order dated 28.03.2014, this Court has passed the following order:-

"The impleaded respondents as well as the writ petitioner are allowed to represent their families in performing the religious ceremonies in Nagore Dargah till the order is passed by the Wakf Board. This interim arrangement is made without prejudice to their rights, which is ultimately to be decided by the Wakf Board."

4 In WA.Nos.500 and 501/2015 filed by the petitioner also, this Court, vide common judgment dated 31.10.2015, has disposed of the said writ appeals accordingly and it is relevant to extract the relevant paragraph:-

"Without going to the merits of the issue, we are of the view that the appellant/writ petitioner may also be permitted to receive a portion of the sandalwood paste for offering performance and may also be permitted to participate to the said function. We make it clear that this order will not create any equitable right in favour of the parties and

this order is passed without prejudice to the rights and contentions of the parties in the pending proceedings."

5 Subsequently, the petitioner herein filed WMP.Nos.7664 & 5607/2016 in WP.No.27431/2014 and MP.No.3/2015 in WP.No.27431/2014, praying for appropriate permission to permit him to perform ceremonies at the Annual Urus [Kanduri] festival 2016 and the respective following orders came to be passed on 09.03.2016 and 01.09.2016:-

Order dated 09.03.2016:-

"3 In the light of the above, as an interim arrangement and without prejudice to the rights of the contentions of the parties in the pending proceedings, the petitioner, viz., Haja Noordeen Sahib @ Alhaj Dr. S.Syed Kamil Sahib and Muhalli Muthavalli H.Haja Najmudeed Sahib in both these miscellaneous petitions shall be permitted to receive a portion of the sandalwood paste for offering performance and their participation in the function is only for such purpose and there shall not be any other play, such as standing in front or in groups etc., to enable the function to smoothly proceed.

4 It is made clear that, this order will not create any equitable right in favour of the petitioners herein and it is passed without prejudice to the rights and contentions of the parties in the pending proceedings."

Order dated 01.09.2016:-

"5 In the light of the above, as an interim arrangement and without prejudice to the rights of the contentions of the parties in the pending proceedings, the petitioner, viz., Haja Noordeen Sahib @ Alhaj Dr. S.Syed Kamil Sahib and Muhalli Muthavalli H.Haja Najmudeed Sahib in both these miscellaneous petitions shall be permitted to receive a portion of the sandalwood paste for offering performance and their participation in the function is only for such purpose and there shall not be any other play, such as standing in front or in groups etc., to enable the function to smoothly proceed.

6 It is made clear that, this order will not create any equitable right in favour of the petitioners herein and it is passed without prejudice to the rights and contentions of the

parties in the pending proceedings."

6 Mr.Haja Mohideen Gisthi, learned counsel appearing for the petitioner would submit that the Kanduri festival is commencing on 12.08.2018 and it will be over by 14.08.2018 and for this year also, the petitioner has submitted applications on similar lines as that of the earlier applications and vide impugned communication dated 11.08.2018, the 1st respondent has rejected the same and would further urge that pending disposal of the litigations, the petitioner was granted liberty as per the above cited interim orders and he may be permitted to do so for this year also. It is the further submission of the learned counsel for the petitioner that though this Court, vide common judgment dated 08.06.2018 made in WA.No.1640/2014 etc., batch, has directed him to approach the Civil Court, there is no regular Presiding Officer posted and the learned Sub Judge, Mayavaram is in-charge and he is coming to the jurisdictional Court only one day in a week and the petitioner is finding it extremely difficult to get an order of ad-interim direction and therefore, prays for interference and appropriate orders.

7 Per contra, Mr.V.Lakshminarayanan, learned counsel appearing for the respondents would vehemently contend that in the light of the above cited common judgment, the remedy open to the petitioner, if any, is to approach the Civil Court only and as such, the present request made by him is not at all maintainable and the same has been rightly rejected by the 1st respondent.

8 This Court has carefully considered the rival submissions and also perused the materials placed before it.

9 It is not in dispute that as per the above cited orders of interim directions, the petitioner has been granted some indulgence to receive a portion of the sandalwood paste for offering the performance and it has also been clearly stated that the participation in the function is only for such purpose and there shall not be any play such as standing in front or in groups etc., to enable the function to smoothly proceed and that the said orders of interim directions will not create any equitable right in favour of the petitioner and the said orders were also passed without prejudice to the rights and contentions of the parties in the pending proceedings.

10 This Court also taking into consideration of the fact that no regular Presiding Officer is posted in the Sub Court, Nagapattinam and the learned Subordinate Judge, Mayavaram is in-charge of the Sub Court, Nagapattinam and he is sitting in the said Court only one day in a week, is of considered view that same arrangement can be continued for this year also on similar lines as that of the above cited earlier orders.

11 In the result, the writ petition is allowed and the impugned order dated 11.08.2018 passed by the 1st respondent in Na.Ka.No.57/2018/A2, is hereby set aside. The petitioner is permitted to receive a portion of the sandalwood paste for offering the performance and his participation in the function is only for such purpose and there shall not be any other play, such as standing in front or in groups etc., to enable the function to smoothly proceed and it is also made clear that this present order came to be passed in the peculiar facts and circumstances of the case and as such, it shall not create any legal or equitable right in his favour and it is also passed without prejudice to the rights and contentions of the parties / rival claimants to the civil litigation in OS.No.31/2014 on the file of the Court of Subordinate Judge, Nagapattinam. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

AP

To

1. The Subordinate Judge,
Nagapattinam.

+1cc to Mr.Haja Mohideen Gisthi, Advocate SR.No.56216

W.P.No.20981/2018

GN(30/08/2018)

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