

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.958 of 2018

- 1.P.S.Kamalanathan
- 2.P.Senthil Kumar
- 3.P.Elango

.... Appellants/Respondents

-vs-

- 1.G.Rajmohan
- 2.The Commissioner,
Hindu Religious and Charitable Endowment Dept.,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Salem Division, O/o.Joint Commissioner,
Salem District - I.
- 4.The Executive Officer,
A/m.Badrakaliamman Temple
Mecheri, Mettur Taluk,
Salem District - 636 453.
- 5.The Fit Person/Asst. Commissioner,
A/m.Badrakaliamman Temple
Mecheri, Mettur Taluk,
Salem District - 636 453.
Also the Executive Officer/Asst.Commissioner,
A/m.Narasimhasamy Temple,
Namakkal District.

6. The Superintendent of Police,
O/o. The Superintendent of Police,
Salem District.

- 7.The District Collector,
O/o.The District Collector,
Salem District.

- 8.R.Rathinam

.... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.5644 of 2017 dated 07.03.2017.

WP.5644/17:

Writ of Mandamus directing the respondents 1 to 4 herein to conduct the Rathostavam Festival exclusively and direct the respondents 1 to 3 herein to forbear the respondents 7 to 9 herein or any third parties from conducting the above festival and pass such other or suitable orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellants : Mr.Dhalapathy Vignesh Kumar

For Respondents : Mr.V.Srikanth for R1
Mr.M.Maharaja, Spl.Govt.Pleader
(HR & CE) for R2 to R4
Mr.M.Karthikeyan
Addl.Govt.Pleader
for R5 to R7
No appearance for R8

J U D G M E N T

[Judgment of the Court was delivered by
R.SUBRAMANIAN, J.]

The challenge in this intra court appeal is to the order passed in W.P.No.5644 of 2017 dated 07.03.2017. The dispute in the writ petition was in respect of conducting Rathostavam Festival at Arulmigu Badrakali Amman Temple at Mecheri, Salem District.

2. The writ petition was filed for a mandamus directing the respondents 2 to 5 to conduct the Rathostavam festival exclusively and directing the respondents 2 to 4 to forbear the appellants herein or any third parties from conducting the festival. The writ petition was disposed on 07.03.2017 with the following direction:-

"6. Therefore, respondents 3 and 4 will conduct the festival under the guidance of respondents 1 and 2. Taking into consideration the facts and circumstances of the case, the petitioner as well as respondents 7 to 10 are directed to participate and assist for the smooth conduct of the festival. The fifth respondent is also directed to give necessary protection, on getting the direction in writing from the Executive officer/the third respondent herein."

said writ petition contending that they have a vested right to perform Rathostavam Festival in the temple by virtue of a decree passed by the Civil Court. From the order passed by the learned single Judge, it is seen that the appellants were not served with notice in the writ petition and the writ petition came to be disposed of in their absence. Now that the appellants have come up with this appeal on the ground that they have a right conferred on them by a valid decree passed by the Civil Court, we are of the view that the order passed by the learned single Judge cannot be sustained inasmuch as it was passed without notice to the appellants, more so, when it is claimed that the rights of the appellants are invaded by the said order. We are therefore of the view that the order passed by the learned single Judge has to be set aside on this short ground.

4. Accordingly, the order dated 07.03.2017 made in W.P.No.5644 of 2017 is set aside. The writ petition is remitted to the learned single Judge to be considered afresh, after notice to the appellants herein.

5. The intra court appeal is allowed. No costs.

Sd/-

Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Dept.,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Salem Division, O/o.Joint Commissioner,
Salem District - I.
- 3.The Executive Officer,
A/m.Badrakaliamman Temple
Mecheri, Mettur Taluk,
Salem District - 636 453.
- 4.The Fit Person/Asst. Commissioner,
A/m.Badrakaliamman Temple
Mecheri, Mettur Taluk,
Salem District - 636 453.
Also the Executive Officer/Asst.Commissioner,
A/m.Narasimhasamy Temple,
Namakkal District.

5. The Superintendent of Police,
O/o. The Superintendent of Police,
Salem District.

6.The District Collector,
O/o.The District Collector,
Salem District.

+1cc to Mr.V.SRIKANTH, Advocate SR.No.48697

+1cc to Government Pleader SR.No.49078

VGII(CO)
SMI/21.08.2018

W.A.No.958 of 2018



WEB COPY