



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **22.03.2018**

CORAM:

THE HON'BLE MR.JUSTICE **P.RAJAMANICKAM**

CRL.O.P.(MD)No.2363 of 2018

S.M.Raja

... Petitioner

-vs-

1.Thiru.N.Suresh, M.A.B.L.,
Fit Person,
Arulmigu Muthumariamman Thirukoil,
Jakkampatti Andipatti Taluk,
Theni District.
And
The Executive Officer,
Arulmigu Dharmasastha Thiruvoil,
Thimmarasanaickanur,
Andipatti Taluk, Theni District.
(Within the Limits of
Antipatti Police Station)

...1stRespondent/1stRespondent/
Petitioner

2.S.Ganesan

3.R.Arunagiri

4.K.M.Gurusamy

5.Thillai Natarajan

6.M.Muthuchamy

7.M.Ponraj

8.Narasimmha Perumal

...Respondents 2-8/Respondents2-8/
Respondents1-7

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the Judicial Magistrate Court, Aundipatti, to take on file the impleading petition filed by the petitioner in unnumbered Crl.M.P. of 2018 in Crl.M.P.No.5156 of 2014 and dispose the same on merits.

For Petitioner

: Mr.K.Gokul

ORDER

This Criminal Original petition has been filed to direct the Judicial Magistrate Court, Aundipatti, to take on file the

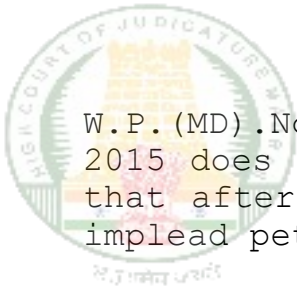


impleading petition filed by the petitioner in unnumbered Crl.M.P. of 2018 in Crl.M.P.No.5156 of 2014 and dispose of the same on merits.

2.The learned counsel appearing for the petitioner has submitted that the petitioner is a devotee of Arulmigu Sri Muthumariamman Thirukkivil, Jakkampatti. Since so many persons claimed rights with regard to the administration of the said temple, one S.M.Marimuthu and S.P.Velmurugan have filed a writ petition in W.P.(MD) No.1199 of 2014, seeking direction to take over the possession of the said temple by Hindu Religious and Charitable Endowments Department. During pendency of the said writ petition the Hindu Religious and Charitable Endowments Department has passed an order taking the said temple under the control. Even thereafter the possession of the said temple was not taken over by the Hindu Religious and Charitable Endowments Department. Hence, another Public Interest Litigation was filed in W.P.(MD) No.6259 of 2017 by the petitioner herein. At that time it was brought to the notice of this Court that the fit person has filed Crl.M.P.No.5156 of 2014, before the Judicial Magistrate Court, Aundipatti, under Section 101 of HR&CE Act for taking possession of the said temple. Hence, this Court has directed the concerned Judicial Magistrate to dispose of Crl.M.P.No.5156 of 2014, within a period of four months from the date of receipt of the said order copy. In Para No.10 of the said order, this Court also recorded to take the grievance raised by the petitioners.

3.He further submitted that on the basis of the said order the petitioner herein has filed an application to implead himself as a party in Crl.M.P.No.5156 of 2014, on the file of the Judicial Magistrate Court, Aundipatti. The learned Judicial Magistrate, Aundipatti, refused to receive the said petition. Hence, he requested to direct the Judicial Magistrate, Aundipatti, to take on file the impleading petition filed by the petitioner and pass orders on merits.

4.Since the allegation has been made against the Judicial Magistrate, this Court has directed the Registry to send a copy of the petition and affidavit to the concerned Judicial Magistrate and call for a report. Accordingly, the Registry has called for a report from the District Munsif cum Judicial Magistrate, Aundipatti. The Judicial Magistrate has submitted his report stating that this Court while disposing of W.P.(MD).No.6295 of 2017 has directed the Judicial Magistrate to re-hear the matter, issue notice to the concerned parties and dispose of the matter within a period of four months from the receipt of the order in Crl.R.C.(MD) No.681 of 2017. Hence, he feels that concerned parties means, who are cited as party in Crl.R.C.(MD) No.681 of 2017. He further submitted that since the petitioner herein is not a party in Crl.R.C.(MD) No.681 of 2017 no notice was issued to him. He Further stated that in para No.10 of the order, this Court has specifically observed that in view of the order made in Crl.R.C.(MD) No.681 of 2017 the grievance raised in



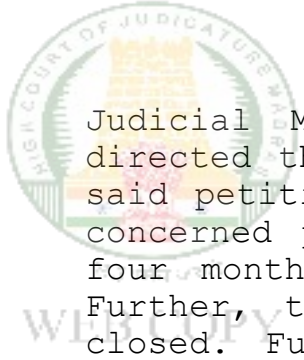
W.P.(MD).Nos.6295 of 2017 and 5807 of 2016 and W.P.(MD) No.10330 of 2015 does not survive and accordingly closed. He further submitted that after perusing the order of this court, he refused the party implead petition.

5. If the petitioner is not entitled to file a party implead petition, the Judicial Magistrate should have passed an appropriate order in the said petition. Instead of doing so, he should not have refused to receive the petition itself.

6. The common order passed by the Division Bench of this Court in W.P.(MD).Nos.6295 of 2017, 5807 of 2016, 9030 of 2015, 10330 of 2015 and 2499 of 2014 and Crl.R.C.(MD) No.681 of 2017, dated 24.08.2017 is perused. In the said order in paragraph Nos.9 and 10, the Hon'ble Division Bench has observed as follows:

"9.The Criminal Revision case in Crl.R.C.(MD) No.681 of 2017, has been filed challenging the dismissal of Cr.M.P.No.5156 of 2014 by the learned Judicial Magistrate, Aundipatti. The said petition was filed under Section 101 of the Tamil Nadu HR & CE Act. The person, who filed the said petition was transferred. The new incumbent did not pursue the matter. The petition therefore, came to be dismissed for default. A Statutory order has been passed, appointing a fit person in the said temple and it is the duty of the fit person to take possession of the temple in question. In this case, there is resistance and not handing over the possession by the erstwhile trustee. Hence, the fit person rightly filed the said petition. It was dismissed for the reason set out above. The order dismissing the permission under Section 101 of the HR & CE Department will have to be necessarily set aside and the petition restored to file. The learned Magistrate shall re-hear the matter, issue notice to the concerned parties and dispose of the same within a period of four months from the date of receipt of a copy of this Order. Crl.R.C.(MD) NO.681 of 2017 is allowed as above.

10.In view of the order made in Crl.R.C.(MD) No.681 of 2017 the grievance raised in W.P.(MD) Nos.6295 of 2017 and 5807 of 2016 and W.P.(MD) NO.10330 of 2015 does not survive and accordingly closed. The fit person has already moved the learned Magistrate for taking possession of the temple in question. Depending upon the order passed by the learned Magistrate, liberty is granted to the fit person to take appropriate action, taking into account the grievance raised by the petitioner in W.P.(MD) No.580 of 2016 and W.P.(MD) No.10330 of 2015. No costs. Consequently, connected miscellaneous petitions are closed."



Judicial Magistrate, Aundipatti in Crl.M.P.No.5156 of 2014 and directed the Judicial Magistrate Court, Aundipatti, to restore the said petition and re hear the matter, after issuing notice to the concerned parties and dispose of the petition within a period of four months from the date of receipt of a copy of this order. Further, the Writ Petitions filed by the petitioner herein were closed. Further a liberty was given to the fit person to take appropriate action depending upon the order passed by the Judicial Magistrate, taking into account the grievance raised by the petitioner herein. So it is very clear that the Hon'ble Division Bench has not given any liberty to the petitioner herein to participate in Crl.M.P.No.5156 of 2014. He is not entitled to file a petition to implead himself as a party in Crl.M.P.No.5156 of 2014. Hence, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate Court,
Aundipatti,
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Gokul, Advocate, SR.No.57548.

CRL.O.P.(MD)No.2363 of 2018
22.03.2018

CP

RAM/JC/SAR 2/16.05.2018/4P/4C