



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.[MD].No.23970 of 2018

WEB COPY

P.Arun

: Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District, Nagercoil.

2.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

3.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

4.T.Chandran

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider and dispose of the petitioner's representation dated 29.11.2018 and pass appropriate order in connection with the Kodai Vizha of Arulmigu Shri Mutharamman Temple situated at Vadalivilai, Kottar Post, Nagercoil, Kanyakumari District.

(Prayer is amended as per order dated 05.12.2018
made in W.M.P(MD)No.21811 of 2018)

For petitioner

: Mr.S.Balaji

For respondents

: Mr.R.Anandharaj

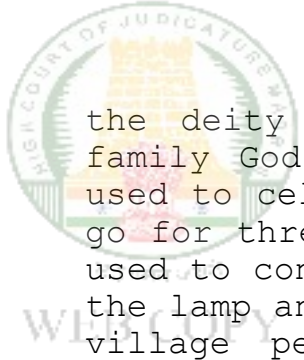
Additional Public Prosecutor
(for R1 to R3)

Mr.A.Saravanan (for R4)

ORDER

This Writ Petition has been filed to direct the respondents to consider and dispose of the petitioner's representation dated 29.11.2018 and pass appropriate order in connection with the Kodai Vizha of Arulmigu Shri Mutharamman Temple situated at Vadalivilai, Kottar Post, Nagercoil, Kanyakumari District.

2.The learned counsel appearing for the petitioner would submit that the petitioner is the resident of Vadalivilai village and that Sri Mutharamman and Sri Sudalaimadasamy Temple have been under existence for the past several decades and they have been treating



the deity by name, Arulmigu Sri Mutharamman as the petitioner's family God. During the month of May and December, the villagers used to celebrate Kodai Vizha in the said temple and the same would go for three days continuously and during such time, the petitioner used to conduct number of celebrations inclusive of Pongal, Lighting the lamp and common feast and in all such functions the petitioner's village people and the people from nearby villages and other neighbouring Districts also used to participate.

3.The learned counsel would further submit that unfortunately, during the year 2016, a dispute arose between two groups in administering the temple and conducting the Kodai Vizha and in respect of the dispute, a suit in O.S.No.44 of 2016 was instituted and the same is pending before the jurisdictional civil Court concerned. He would further submit that when an attempt was made to conduct Kodai Vizha, there was no consensus between both the parties and the proceedings under Section 107 of Cr.P.C was initiated by the third respondent police on 11.03.2016 and while steps were being taken for coming to an amicable settlement between the parties concerned, the fourth respondent during the year 2017, on his own accord had sought for permission and police protection from the third respondent to conduct the festival from 11.05.2017 to 13.05.2017, but the same was rejected by the third respondent vide his proceedings in Ka.No.2/2017 dated 02.05.2017. Against which, the fourth respondent filed a writ petition before this Court in W.P (MD)No.8853 of 2017 and in the said writ petition, the petitioner's party men were not added as respondent. This Court, by order dated 11.05.2017, had disposed of the said writ petition directing the second respondent to conduct peace committee by inviting both parties and after giving reasonable time and opportunity of being heard to take a decision in that regard.

4.Further, the learned counsel would submit that as per the above said order, on 12.05.2017 at 11.00, a peace committee meeting was conducted under the head of the second respondent, wherein, both parties agreed to conduct Kodai Vizha under the leadership of their respective nominated person. Thereby two persons were nominated namely, Mr.Karthick on behalf of the petitioner party and the fourth respondent/rival party headed by one Mr.Thangaraj, following which, the parties peacefully celebrated the Kodai Vizha without their being any hindrance. While so, the fourth respondent and his party men, without convening a meeting by inviting all the village people and without collecting a tax for conducting the temple festival on their own accord circulated pamphlets and affixed posters in and around the village and were taking steps for conducting Kadai Vizha which is schedule to be taken place from 08.12.2018 to 12.12.2018 and for initiating such festival, flag hoisting is going to fix on 04.12.2018. After coming to know about that, the petitioner had approached the fourth respondent and his party men to convene a general meeting by calling all the village people for conducting the Kodai Vizha by arriving at a consensus, whereas, the fourth respondent refused to allow the petitioner to join with them and intended celebrate the festival on their own accord. Hence, having no option, on behalf of the petitioner party men, on 29.11.2018, the



petitioner approached the District Collector, Kanyakumari District by way of representation dated 29.11.2018 and requested the authorities to give suitable direction to the fourth respondent and his party men in respect of conducting the Kodai Vizha and not to give permission to the fourth respondent to conduct the said festival without allowing the petitioner party men to participate in such festival. Despite the petitioner's representation, no suitable action has been taken by the respondents. Hence, the petitioner has filed the present writ petition seeking above said relief.

5. When the matter came up for admission on 04.12.2018, it was represented by the third respondent police that the fourth respondent had applied for permission to conduct the festival and that since the respondents were waiting to grant permission, the fourth respondent had approached this Court by way of filing the writ petition in W.P(MD)No.22808 of 2018 and this Court had by order dated 15.11.2018, directed the respondents to dispose of the representation and based on that, the permission had been given to the fourth respondent to conduct the festival.

6. Mr. A. Saravanan, learned counsel appearing for the fourth respondent would submit that absolutely there is no dispute between the parties and would submit that the fourth respondent is ready and willing to celebrate the festival along with the petitioner's group in a amicable and peaceful manner and would submit that the fourth respondent had filed an undertaking affidavit before this Court agreeing to permit the members belonging to the petitioner's group also to participate in the festival and that the fourth respondent will not object the petitioner and his men participating in the festival and performing the Ritual, Poojas, Annathanam.

7. In view of the above development, since both parties have agreed to conduct the festival in a peaceful and amicable manner, both the parties, namely, the members belonging the petitioner's group and the members belonging to the fourth respondent's group are directed to approach the third respondent police and third respondent police shall permit them to conduct the festival imposing suitable conditions in order to maintain tranquility and law and order.

With these observations, this writ petition stands disposed of. No costs.

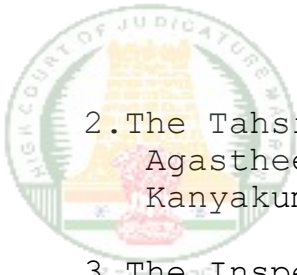
Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Superintendent of Police,
Kanyakumari District, Nagercoil.



2.The Tahsildar,
Agastheeswaram Taluk,
Kanyakumari District.

3.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.S.Balaji, Advocate, SR.No.98744

+1CC to Mr.A.Saravanan, Advocate, SR.No.98734

WP (MD) No.23970 of 2018
05.12.2018

SKN

ES/SKN/RSK/SAR 1/07.12.2018/4P/7C