

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 08.02.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

**W.A.(MD)No.1349 of 2017
and
C.M.P(MD)No.9579 of 2017**

Chellappa ... Appellant/ Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Deputy Superintendent of Police,
Nanguneri Taluk,
Tirunelveli District.
3. The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
4. The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

5.Rajendran ... Respondents/ Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P(MD)No.18001 of 2017, dated 22.09.2017.

Prayer in WP(MD). 18001/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to consider the petitioner's representation dated 04.09.2017 and to take necessary action as against the 5th respondent and to give adequate police protection to conduct the kodai festival under the one roof at Padrakaliamman Temple situated in Sivakamipuram Village, Tirunelveli District in pursuance of the civil court order.



For Appellant : Mr.S.Krishnan

For Respondents : Mr.M.Murugan,
Government Advocate for R.1 to R.4

WEB COPY

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

Mr.M.Murugan, learned Government Advocate takes notice for the respondents 1 to 4.

2. By consent, the writ appeal is taken up for final disposal.

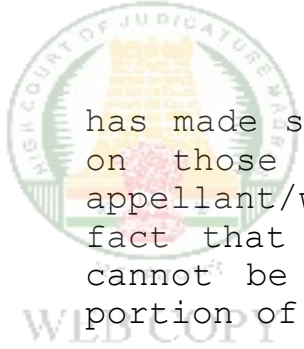
3. The only issue that arises for consideration in this writ appeal is as to the imposition of cost of Rs.10,000/- (Rupees Ten Thousand only) on the appellant/writ petitioner by the learned Judge while dismissing the writ petition.

4. The appellant/writ petitioner along with one Ayyadurai and Thangaraj filed O.S.No.149 of 2016 for permanent injunction restraining the defendant therein, namely, Rajendran - the fifth respondent herein from interfering with the conduct of pooja and other related ceremonies between 12.12.2016 and 14.12.2016 and pending disposal of the same, filed I.A.No.1349 of 2016 for the similar relief.

5. The trial Court, vide order dated 02.01.2017, has taken into consideration the endorsement made by the respective learned Counsel for the parties and ordered that the petitioners/plaintiffs therein which includes the appellant/writ petitioner to conduct the poojas on 10.01.2017. One of the plaintiffs namely, Chellappa, aggrieved by the interference on the part of the fifth respondent herein, despite the said interim order as to the conduct of the festival, submitted a representation dated 04.09.2017 for providing adequate police protection to conduct Kodai festival and since it was not disposed of, has filed W.P(MD)No.18001 of 2017.

6. The learned Judge during the course of arguments in the said writ petition, found that some misrepresentation of facts has been made without understanding the relevant facts and imposed a cost of Rs.10,000/- (Rupees Ten Thousand only) while dismissing the writ petition.

<https://hcservices.ecourts.gov.in/hcservices>
The learned Counsel for the appellant/writ petitioner would submit that on that day, a Junior Counsel, who has advanced the arguments without understanding the question posed by this Court,



has made some submissions and would further add that the festival on those days has been peacefully conducted and since the appellant/writ petitioner is a very small trader coupled with the fact that a Junior Counsel on record made a representation, he cannot be mulcted with costs and prayed for setting aside the portion of the order imposing the costs.

8. This Court heard the submissions of the learned Government Advocate appearing for the respondents 1 to 4.

9. In the light of the submission made by the learned Counsel for the appellant/writ petitioner coupled with the fact that the festival has also been conducted on those days, this Court is of the view that the portion of the order in and by which, the appellant/writ petitioner was imposed with a cost of Rs.10,000/- (Rupees Ten Thousand only) is to be set aside.

10. In the result, this writ appeal is partly allowed and the portion of the order imposing the cost of Rs.10,000/- (Rupees Ten Thousand only) on the appellant/writ petitioner alone, is set aside. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Deputy Superintendent of Police,
Nanguneri Taluk, Tirunelveli District.
3. The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
4. The Revenue Divisional Officer,
Cheranmahadevi, Tirunelveli District.

+ 1 cc TO The Special Government Pleader in SR No. 47714

rsb

AE/KK/SAR3/27.02.2018/3P/6C

**W.A. (MD) No.1349 of 2017
and**

**C.M.P (MD) No.9579 of 2017
08.02.2018**