

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3228 of 2018
and
W.M.P.No.3961 of 2018

1.P.S.Kamalanathan

2.P.Senthil Kumar

3.P.Elango

....Petitioners

vs.

1.The Commissioner
Hindu Religious & Charitable
Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600034.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
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 Inspector of Police,
Mecheri Police Station,
Mecheri, Salem District.

5.Mr.R.Rathinam

6.Mr.G.Rajmohan

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the rights of the petitioners as special kattalaidhars to perform the Rathothsavam at their own costs with reference to the temple Arulmigu Bathrakaliamman Thirukoil, Mecheri, Mettur Taluk, Salem District.

For Petitioners : Mr.M.Venkatachalapathy,
Senior Counsel
for M/s.M.Sriram

For Respondents : Mr.M.Maharaja,
Special Government Pleader for R1 & R2
Mr.A.K.Sriram for R3
Mr.E.Balamurugan,
Special Government Pleader for R4
Mr.S.S.Rajesh for R5
Mr.V.Srikanth for R6
Mr.S.Ashok Kumar for R7

O R D E R

This writ petition is filed seeking for declaration to declare the rights of the petitioners as special Kattalaidhars to perform the Rathothsavam at their own costs with reference to the Temple Batharakaliamman Thirukoil, Mecheri, Mettur Taluk, Salem District.

2. Similarly, another writ petition in W.P.No.5644/2017 was filed by one G.Rajmohan seeking for a Mandamus directing the respondents 1 to 4 therein to conduct the Rathostavam Festival exclusively and direct the respondents 1 to 3 to forbear the respondents 7 and 9 therein or any third parties from conducting the above festival.

3. In W.P.No.5644/2017, an order came to be passed by this Court on 07.03.2017 disposing the Writ Petition with a direction to the respondents 3 and 4 therein to conduct the festival under the guidance of the respondents 1 and 2 therein with further direction to the petitioner therein as well as the respondents 7 to 10 therein to participate and assist the smooth conduct of the festival.

4. In W.P.No.3228/2018, an order came to be passed by this Court on 14.02.2018 by disposing the same without expressing any view on the merits of claim made by the petitioners on the reason that until the petitioners succeed in their attempt in challenging the order passed in W.P.No.5644/2017, they could not maintain the Writ petition No.3228/2018. Challenging the order

passed in W.P.No.3228/2018, an Appeal was filed in W.A.No.628/2018. Likewise, challenging the order passed in W.P.No.5644/2017 another Writ Appeal No.958/2018 was filed. The Division Bench of this Court, by order dated 20.07.2018 passed separately, set aside the orders passed in both the Writ Petitions and remitted the matter back to the Writ Court once again for considering the matter afresh. Thus, both the said Writ Petitions are listed before this Court today for further hearing.

5. Mr.M.Venkatachalapathy, learned senior counsel appearing for the petitioners in this writ petition (W.P.No.3228/2018) submitted that during the pendency of the Writ Appeal, the petitioners have filed O.A.No.15/2018 before the Joint Commissioner of H.R. & C.E. Salem, seeking to establish their right as sought for in this writ petition and the said O.A. is still pending. It is also brought to the notice of this Court that another O.A.No.7/2015 was also filed touching upon the very same subject matter and the said O.A. is also pending before the Joint Commissioner, H.R. & C.E., Salem. It is stated that some parties have also filed implead petition in those O.As. Learned senior counsel for the petitioners, thus submitted that the petitioners may be given liberty to work out the matter before the Joint Commissioner where the above said O.As. are pending.

6. Considering the above stated facts and circumstances and more particularly, in view of the fact that the very same petitioners in this writ petition have already approached the Joint Commissioner and that filed O.A.No.15/2018 and that the relief sought for in the said O.A. and in this Writ Petition stated to be one and the same, this Court is of the view that it is for the Joint Commissioner to consider the merits of those O.As. and pass orders on the same on merits and in accordance with law after hearing all the parties concerned. Since the said O.As. are already filed and pending, this Writ Petition is disposed of without expressing any view on the merits of the claim made by the respective parties. The above said O.As along with the connected petitions shall be disposed of by the Joint Commissioner, within a period of six months from the date of receipt of a copy of this order. In the meantime, the official respondents shall conduct Rathothsavam and the petitioners as well as the private respondents can only participate in the festival, however, without conducting any horse riding. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi/gsi

To

1.The Commissioner

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Endowment Department,
No.119, Uthamar Gandhi Salai,
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3.The Executive Officer,

A/m.Badrakaliamman Temple
Mecheri, Mettur Taluk,
Salem District - 636 453.

4.The Inspector of Police,

Mecheri Police Station,
Mecheri, Salem District.

+1cc to Mr.A.S.Kailasam & Associates, Advocate, S.R.No.10199

+1cc to Mr.A.V.Arun, Advocate, S.R.No.10288

+1cc to Mr.M.Sriram, Advocate, S.R.No.10476

W.P.No.3228 of 2018

RGN (CO)

GSP (11/02/2019)

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