

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.5582 of 2019
and
W.M.P.No.6354 of 2019

R.Rathinam

...Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious &
Charitable Endowment Department,
Salem Division, O/o. Joint Commissioner,
Salem District.

2. The Executive Officer,
A/m. Badrakaliamman Temple,
Mecheri, Mettur Taluk,
Salem District - 636453.

3. P.S.Kamalanathan

4. P.Senthil Kumar

5. P.Elango

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order dated 23.01.2019 made in I.A.No.3 of 2018 in O.A.No.15 of 2018 on the file of the Joint Commissioner of Hindu Religious and Charitable Endowments Departments, Salem, 1st respondent herein and quash the same pending disposal of the above writ petition.

For Petitioner : Mr.A.V.Arun

For Respondents: Mr.M.Maharaja
Special Government Pleader
for R1 & R2
M/s.S.Kaithamalai Kumaran
for R3 to R5

O R D E R

This Writ Petition is filed challenging the order of the 1st respondent dated 23.01.2019, in dismissing the implead petition filed by the petitioner in I.A.No.3 of 2018 in O.A.No.15 of 2018.

2. Heard both sides.

3. It seems that there is a dispute between the parties in respect of conducting Rathothsavam festival at Arulmighu Badrakali Amman Temple, Mecheri, Salem District during the month of MASI.

4. The respondents 3 to 5 herein, approached this Court and filed W.P.No.3228 of 2018 and sought for declaration to declare their rights as special kattalaidhars to perform the said festival at their own costs. The said writ petition was disposed of on 06.02.2019, by passing the following order:

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.

5. The petitioner herein has already filed I.A.No.3 of 2018 in the said O.A.No.15 of 2018 for impleading himself as a party therein. However, before the order passed by this Court on 06.02.2019 in W.P.No.3228 of 2018 as stated supra reaches the 1st respondent, he passed the present impugned order on 23.01.2019,

rejecting the petitioner's implead petition. Therefore, the petitioner is aggrieved against the rejection order.

6. The learned counsel for the petitioner contended that when this Court has specifically directed the 1st respondent to hear all the parties concerned and dispose the said O.A along with connected writ petitions, the 1st respondent is not justified in rejecting the petitioner's implead petition.

7. On the other hand, the learned counsel contesting for the respondents/private parties, contended that the petitioner is not having any rights in respect of the subject matter festival.

8. As already stated, this Court has not expressed any view on the merits of the claim made by the respective parties, as it is for the 1st respondent to consider and decide in the pending O.A.No.15 of 2018. However, when this Court, has already directed the 1st respondent to hear all the parties concerned and pass orders in the said O.A along with connected petitions, the 1st respondent ought to have heard the petitioner herein as well and disposed the main O.A. Since this Court is not expressing any view on the merits of the claim made by the respective parties, mere permitting the petitioner herein, to take part in the said proceedings cannot be construed as an acceptance of the case of the petitioner before this Court in respect of the right to conduct such festival.

9. Needless to say that all the parties can place their respective submissions before the 1st respondent, so as to enable him to pass the appropriate orders on merits and in accordance with law.

10. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent for considering O.A.No.15 of 2018, also by hearing the petitioner and other interested parties if any, including the respondents 3 to 5 herein. Since this Court has already fixed the time limit for the disposal of the said O.A, no further time needs to be fixed except to state that the first respondent shall adhere to the time limit already fixed in disposing of the said O.A.No.15 of 2018. All the parties should cooperate for the disposal of the said O.A.No.15 of 2018, within a time stipulated by this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

sni

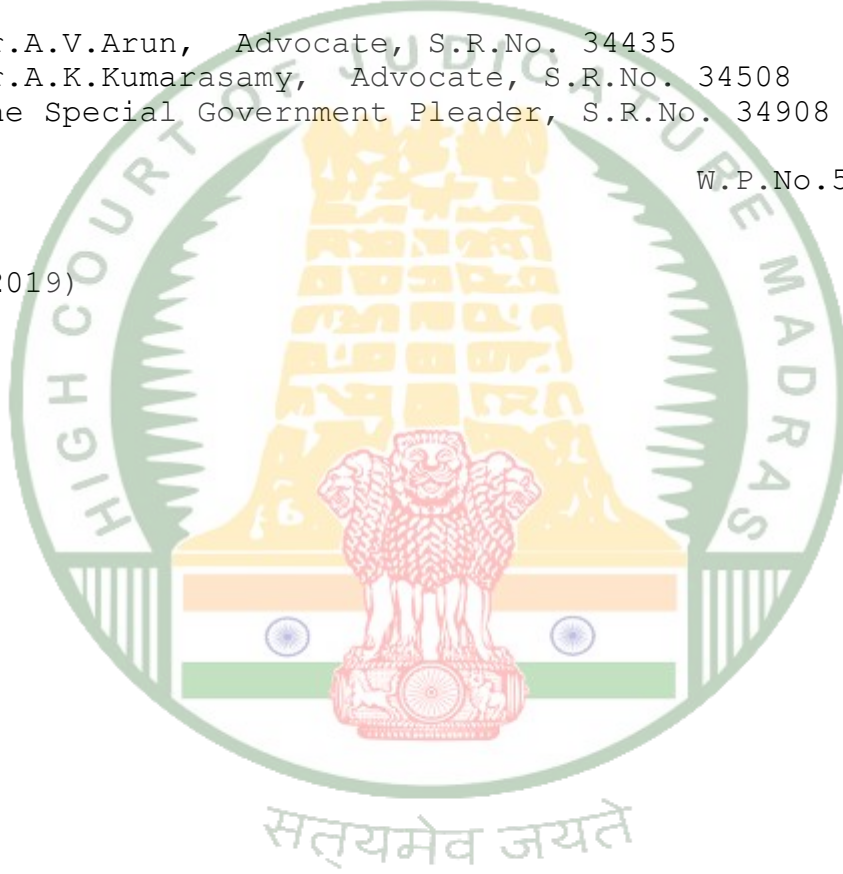
To

1. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Salem Division, O/o. Joint Commissioner,
Salem District.
2. The Executive Officer,
A/m. Badrakaliamman Temple,
Mecheri, Mettur Taluk,
Salem District - 636453.

+1cc to Mr.A.V.Arun, Advocate, S.R.No. 34435
+1cc to Mr.A.K.Kumarasamy, Advocate, S.R.No. 34508
+1cc to the Special Government Pleader, S.R.No. 34908

W.P.No.5582 of 2019

PMS (CO)
GN(15/04/2019)



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