

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 11.04.2019  
CORAM  
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU  
W.P.No.5624 of 2019

S.Subramani

... Petitioner

Vs

1. The District Collector,  
Salem District,  
Salem.

2. The Joint Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Salem District,  
Salem.

3. The Commissioner of Police,  
Salem City, Salem.

4. Manickam

5. E.Sakthi

6. P.Anbazhagan

7. M.Vellimalai

8. K.Dhanapal

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 to 3 to conduct the annual Masi month festival of Mariyamman Temple, Ammani Kondalampatti at Salem pursuant to the petitioner's representation dated 06.02.2019 and 07.2.2019.

For Petitioner : Mr.Durai Gunasekaran

For Respondents : Mr.A.Kumar,  
Additional Advocate General  
assisted by Mr.E.Balamurugan,  
Special Government Pleader for R1 & R3  
Mr.M.Maharaja,  
Special Government Pleader for R2  
Mr.D.Vijaya B askar for R4 and R5  
Mr.D.Deviga for R6 and R7  
Mr.K.Selvaraj for r8.

## O R D E R

This writ petition is filed seeking for a Mandamus directing the respondents 1 to 3 to conduct the annual Masi month festival of Mariyamman Temple, Ammani Kondalampatti at Salem pursuant to the petitioner's representation dated 06.02.2019 and 07.2.2019.

2. Heard Mr.Durai Gunasekaran, learned counsel for the petitioner, Mr.A.Kumar, learned Additional Advocate General assisted by Mr.E.Balamurugan, Special Government Pleader appearing for the first and third respondents, Mr.M.Maharajan learned Special Government Pleader appearing for the second respondent and the learned counsels appearing for the private respondents 4 to 8.

3. The grievance of the petitioner before this Court is that the Temple festival, more particularly, Masi month festival at the above said temple is not being performed periodically, despite an order passed by the Civil Court in I.A.No.248/2017 in O.S.No.98/2017 on the file of the Additional District Munsif Court, Salem, dated 24.04.2017, in dismissing the said I.A. filed by the plaintiffs/ respondents 4 and 5 herein along with other three persons against the 8<sup>th</sup> respondent.

4. It is the case of the petitioner that the said suit is filed by the respondents 4 and 5 along with 3 others seeking for the declaratory relief in respect of the right to conduct the temple festival and that, when the interim injunction sought for by the plaintiffs was already rejected, they cannot prevent the 8<sup>th</sup> respondent herein from conducting the said festival. In other words, it is the case of the petitioner that the temple festival has to be conducted by the 8<sup>th</sup> respondent.

5. On the other hand, it is contended by the learned counsel appearing for the respondents 4 and 5 that though an interim injunction is not granted, the finding of the trial Court in the said order would show that the right to conduct the festival by any person has to be considered and decided only in the main suit and therefore, the 8th respondent cannot be permitted to conduct the festival.

6. Upon hearing both sides, it is evident that the parties are fighting with each other with regard to their right to conduct the festival. Admittedly, a suit filed by one of the parties in O.S.No.98/2017 as stated supra is pending before the Civil Court. During the pendency of the suit, it appears that the festival in the said temple is not being conducted. Needless

to say that the conducting of periodical Temple festival, cannot be stopped, merely because, some private parties are fighting with each other with regard to their right to conduct such festival. Temple festivals are being conducted not to satisfy any private individual but as rituals to be followed without any break. Who is to conduct the festival is not material but ensuring the conducting of the same is important. Therefore, the warring groups should realise that under the guise of establishing their right to conduct such festival, they indirectly stop the very festival itself.

7. When such circumstances and situations arise in respect of conducting the festival at the temple, the HR & CE Department has to necessarily step into the situation and see that the festival is conducted by themselves without any break and hindrance, by seeking appropriate and adequate police protection, is required. No private individuals can prevent the HR & CE Department from conducting the festival of the temple, while they fight with each other, till they get their right established before the competent court of law to conduct such festival.

8. In this case, as this Court finds that the subject matter temple festival cannot be permitted to be conducted by any one of the private parties, as such permission would only result in a law and order situation, the 2<sup>nd</sup> respondent is directed to conduct the periodical festivals at the subject matter temple with the help of the HR & CE officials also by seeking police protection, if required, pending decision of the case in O.S.No.98/2017 on the file of the Additional District Munsif Court, Salem. All the parties including the petitioner and the private respondents are entitled to take part in the festivals as like any other public, without causing any hindrance or disturbance to the conduct of the festival as directed by this Court. It is made clear that the above order passed by this Court is only to see that the festivals are being conducted in the said temple without any break, however, without expressing any view on the merits of the claim made by the respective parties in respect of their right to conduct such festivals in the said temple, as this Court leave such question to be decided by the Civil Court. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi

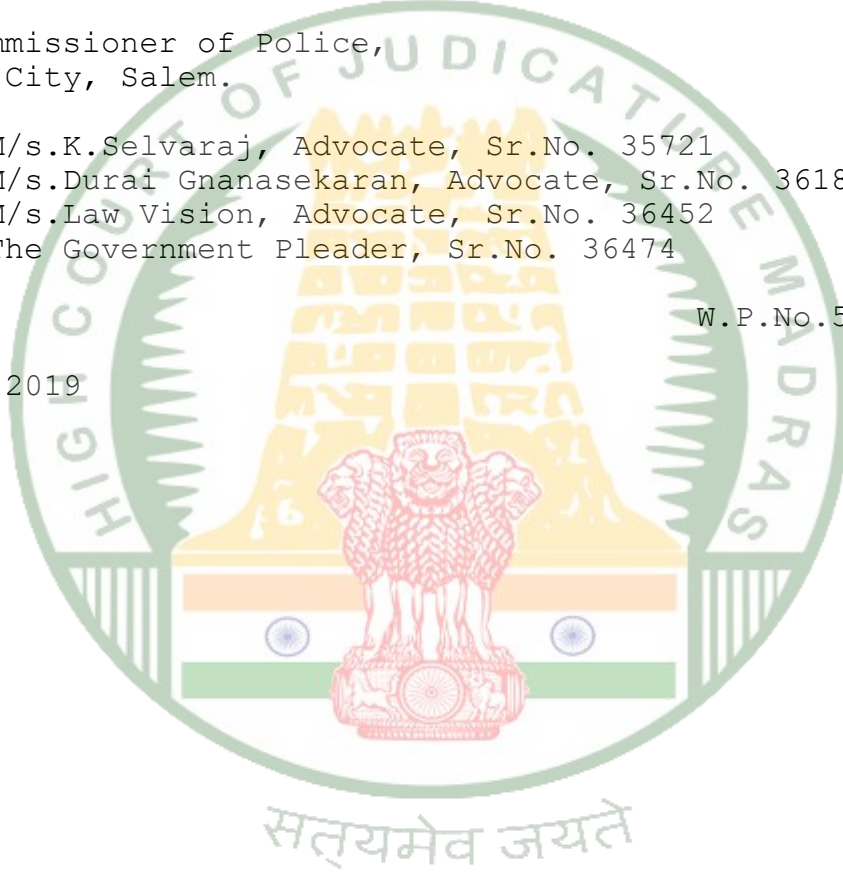
To

1. The District Collector,  
Salem District,  
Salem.
2. The Joint Commissioner,  
Hindu Religious and Charitable  
Endowments Department,  
Salem District,  
Salem.
3. The Commissioner of Police,  
Salem City, Salem.

+1 cc to M/s.K.Selvaraj, Advocate, Sr.No. 35721  
+1 cc to M/s.Durai Gnanasekaran, Advocate, Sr.No. 36185  
+1 cc to M/s.Law Vision, Advocate, Sr.No. 36452  
+1 cc to The Government Pleader, Sr.No. 36474

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RK(CO)  
CSL/29.04.2019



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