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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.Nos. 1716 & 1854 of 2018
And
C.M.P.Nos. 14198, 13722 & 14912 of 2018

W.A.No. 1716 of 2018

Ramar

Appellant / 11th Respondent

Vs.

1. K.Mathaiyan
2. The Sub-Divisional Magistrate
and Sub-Collector/Revenue Divisional Officer
Mettur Taluk,
Salem District.
3. The Tahsildhar
Mettur Taluk
Salem District.
4. The Village Administrative Officer
Kaveripuram Village
Mettur Taluk
Salem District.
5. The Village Assistant
Kaveripuram Village
Mettur Taluk
Salem District.
6. Mr.Senthilkumar
The Tahsildhar
Mettur Taluk
Salem District.
7. Mr.Arivalagan
The Village Administrative Officer
Kavreipuram Village
Mettur Taluk,
Salem District.



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8. Mr.Muthappan
The Village Assistant
Kaveripuram Village,
Mettur Taluk
Salem District.

9. G.Govindan

10. G.Loganathan

11. G.Anbumani

Respondents/Respondents

W.A.No. 1854 of 2018

1. G.Govindan

2. G.Loganathan

3. G.Anbumani Appellants / Respondents 8 to 10

Vs.

1. K.Mathaiyan 1st Respondent/Writ Petitioner

2. The Sub-Divisional Magistrate
and Sub-Collector/Revenue Divisional Officer
Mettur Taluk,
Salem District.

3. The Tahsildhar
Mettur Taluk
Salem District.

4. The Village Administrative Officer
Kaveripuram Village
Mettur Taluk
Salem District.

5. The Village Assistant
Kaveripuram Village
Mettur Taluk
Salem District.

6. Mr.Senthilkumar
The Tahsildhar
Mettur Taluk
Salem District.



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7. Mr.Arivalagan
The Village Administrative Officer
Kavreipuram Village
Mettur Taluk,
Salem District.

8. Mr.Muthappan
The Village Assistant
Kaveripuram Village,
Mettur Taluk
Salem District.

9. Ramar Respondents/Respondents 1
to 7 & 11

PRAYER IN W.A.No. 1716 of 2018: Writ Appeal filed under Clause 15 of Letters Patent against the order of his Lordship Mr.Justice T.Raja, in allowing W.P.No. 25012 of 2017 dated 02.08.2018 and the order passed by the learned Judge is liable to be set aside.

PRAYER IN W.A.No. 1854 of 2018: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by the learned Judge in W.P.No. 25012 of 2017 dated 02.08.2018 and allow this Writ Appeal.

WP.No. 25012 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to calling for the records from the 1st respondent in his proceeding Na.Ka.No.3920/2015/ D dated 9.9.2017 (served on 14.9.2017 at 3.30 PM) and quash the same and consequently forbear the respondents from interfering Poojas Performed by the petitioner at Shri Throwpathiamman Sametha Shri Panchapandavar Thirukovil, Mariamman Mangattu Amman, Vinayagar Pattala Amman, Poderi Amman, Manthai Amman at Govindhapadi Kaveripuram Village, Mettur Taluk, Salem District.

For Appellant in
W.P.No. 1716/2018 : Mr. N.L.Raja
Senior Counsel

For 1st Respondent in
W.P.No. 1716/2018 : M/s. A.Esakkiappan

For RR 2 to 4 in
W.P.No. 1716/2018 : M/s. R.Udhaya Kumar
Additional Government Pleader



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For RR 9 to 11 in
W.P.No. 1716/2018 : M/s.K.Balu

For Appellants in
W.P.No. 1854/2018 : Mr. ARL.Sundaresan
Senior Counsel

For 1st Respondent in
W.P.No. 1854/2018 : M/s. A.Esakkiappan

For RR 2 to 5 in
W.P.No. 1854/2018 : M/s. R.Udhaya Kumar
Additional Government Pleader

For 9th Respondent in
W.P.No. 1854/2018 : M/s. N.L.Raja
for Mr.M.R.Jothimanian
Senior Counsel

J U D G M E N T
(Delivered by DR.VINEET KOTHARI, J)

The present Writ Appeal curiously comes up again before this Court though an Order was passed by the Co-ordinate Bench of this Court disposing of the same on 11.09.2018. The Review Petition Nos. 298-299 of 2018 in the present Writ Appeal Nos. 1716 & 1854 of 2018 was also discussed on 25.01.2019. In the said order dated 11.09.2018 disposing of the Writ Appeals, a scheme of administration of the respective temples in question was provided in the following manner:-

"15. Taking note of the admitted position that the Throwpathy Amman Temple is constructed in the 10 cents of land which is admittedly belonged to the first respondent herein, however, it appears that the Mariamman Temple, the point of dispute, is constructed in the Government Poramboke land and the Panjaloga of Mariamman temple has been kept in the Throwpathy Amman Temple for safety reasons. Taking into consideration the entire facts and also taking note of the fact that the suit in O.S.No.253 of 2012 was filed by the appellants herein in connection with Throwpathy Amman Temple and the said suit has been dismissed after contest and aggrieved against the said judgment



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and decree passed in O.S.No.253 of 2012, an appeal in A.S.No.14 of 2017 has been preferred and the same is said to be pending before the Appellate Forum, we find that there is no urgency in deciding these two writ appeals and accordingly, in the interest of justice, subject to the outcome of the civil appeal in A.S.No.14 of 2017, which is pending adjudication before the competent civil Forum, we are of the considered view that following order shall govern the administration of the respective temple and all the parties shall adhere as contained hereunder:-

[i] So far as Mariamman temple is concerned, we make it clear that the idols that are kept in the Throwpathy Amman temple, are being installed in the Mariamman temple and hence, an authority needs to be appointed to take further course of action and thus, the Secretary, Village Panchayat is hereby appointed, to whom, the key of the temple be handed over to keep the custody of the idols in safe, so that it can be handed over to the persons, for performing poojas. It is made clear that the said Secretary shall take care of the safety of the idols to be installed or already installed in Mariamman temple. It is also made clear that, as prevailed earlier and as customary practice, Poojaris should not get any offerings and they should not prevent others from performing poojas in Mariamman temple and Poojaris are allowed to perform pooja on their own volition.

16. As observed by us in the preceding paragraphs, the appellant in W.A.No.1716 of 2018, who was appointed by following the village customs to nominate Dharmakarthas and Poojaris for temple is hereby permitted to perform poojas at Mariamman temple. However, he shall not demand any remuneration from anybody or any worshipers and he shall



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also permitted to perform poojas on his own volition.

17. Accordingly, the appellant in W.A.No.1716 of 2018 namely, Ramar is permitted to administer the temple as per the customs and the religious practice and to do the Poojas of Mariamman temple alone under the supervision of the temple as per the customs of the above said village. However, he shall not demand any remuneration from the worshipers.

18. With the above directions, these Writ Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."

2. Review Petitions came to be filed by the applicant Mr.K.Mathaiyan, who is represent by the learned counsel Mr.A.Esakkiappan. Those Review Petition Nos. 298 and 299 of 2018 came to be dismissed by another Co-ordinate Bench of this Court on 25.01.2019. However, while dismissing the Review Applications, the subsequent Co-ordinate Bench of this Court made the following observations in paragraph 8 of the Order dated 25.01.2019:-

"8. In the result, the review applications are dismissed. However, in the light of the observations made in the above cited paragraphs, the writ Appeals in W.A.Nos. 1716 & 1854 of 2018 stand revived and the arrangement as ordered in the impugned common judgment dated 11.09.2018, shall continue as an interim arrangement till the disposal of the writ appeals. This Court, taking into consideration of the fact that the dispute relating to the temples is going on for quiet long time, directs the Registry to accord priority for early listing of the writ appeal for final disposal. No costs. Consequently, connected Miscellaneous Petitions are also dismissed."

3. The learned Senior Counsel for the appellants Mr.N.L.Raja, submitted that the Order of Division Bench dated 11.09.2018 was implemented for all this period peacefully and therefore did not deserve to be disturbed at all. He further



submitted that even though the Review Petition filed by the Applicant K.Mathaiyan came to be dismissed by the subsequent Co-ordinate Bench, on 25.01.2019 however the Writ Appeal Nos. 1716 & 1854 of 2018 were revived and it was ordered that the arrangement made in the Order dated 11.09.2018 by the Division Bench shall continue only as an interim arrangement till the disposal of the Writ Appeals again.

4. The learned counsel appearing for the Review Applicant / respondent herein Mr.A.Esakkiappan however submitted that Mr.Ramar had no connection in the matter and therefore he was wrongly appointed as Dharmakartha. He also made an alternate prayer for adjournment of the hearing of the present case as he submitted that Senior Counsel Mr.Xavier Arul Raj has been engaged, who was not available today to argue the said case.

5. Having heard the learned counsels for the parties for some time, firstly, we refuse the request for adjournment made by the learned counsel for the respondent Mr.A.Esakkiappan, as no reasonable cause is shown for the same.

6. We are further clear and of the considered opinion that the dismissal of the Writ Appeals by the earlier Division Bench of this Court on 11.09.2018 did not call for any review or recall as the said directions given by the earlier Division Bench clearly indicated that the scheme of administration stipulated therein, as quoted above, will continue only subject to the outcome of the regular First Appeal in A.S.No. 14 of 2017 which is pending adjudication before the competent Court. The said A.S.No. 14 of 2017 is said to be pending even as of now.

7. We are a little surprised also that while dismissing the Review Applications, the Co-ordinate Bench however thought it fit to revive the present Writ Appeals to be heard again. Be that as it may, we are of the clear opinion that invoking of the writ jurisdiction of this Court parallel to the trial of the civil suits and regular First Appeal of the civil Courts is an abuse of process of law and the writ Courts in such cases are normally reluctant to interfere in such matters particularly when the disputes are pending adjudication in the competent civil Courts including their appellant forums.

8. Be that as it may, we would not express any further opinion on merits of the case on the said issues, lest it, may affect the disposal of A.S.No. 14 of 2017 by the competent First Appellate Court below. Therefore, leaving the parties free to seek their remedy before the First Appellate Court and making it clear that the scheme of arrangement given by the Division Bench of this Court in the Order dated 11.09.2018 shall continue only up to the disposal of A.S.No. 14 of 2017 and shall abide by the



decision there of, we dispose of the present Writ Appeals again without any further directions.

9. Accordingly, the Writ Appeals are disposed of. No costs.

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Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

vsg

To

2. The Sub-Divisional Magistrate
and Sub-Collector/Revenue Divisional Officer
Mettur Taluk,
Salem District.
3. The Tahsildhar
Mettur Taluk
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4. The Village Administrative Officer
Kaveripuram Village
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Salem District.
5. The Village Assistant
Kaveripuram Village
Mettur Taluk
Salem District.

+1cc to Mr.R.Jothimanian, Advocate, S.R.No. 47600

+1cc to Mr.K.Balu, Advocate, S.R.No. 47601

+1cc to Mr.A.Esakkiappan, Advocate, S.R.No. 47781

+1cc to the Government Pleader, S.R.No. 48048

W.A.Nos. 1716 & 1854 of 2018

And

C.M.P.Nos. 14198, 13722 & 14912 of 2018

JP (CO)

GN(01/08/2019)