

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Sixteenth day of April Two Thousand Nineteen

PRESENT

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

WMP No.12031 of 2019

IN WP.No.11821 of 2019

FR.JACOP

[PETITIONER]

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REP. BY ITS EXECUTIVE MAGISTRATE CUM
THASILDAR, THIRUKAZHUKUNDRAM, KANCHEEPURAM
DISTRICT.

2 THE SUB COLLECTOR
CHENGALPUT TALUK, KANCHEEPURAM DISTRICT.

3 THE INSPECTOR OF POLICE
TALUK POLICE STATION, CHENGALPUT TALUK,
KANCHEEPURAM DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner Fr.Yesumarian, Fr.Rejis, Mani, Victor, Azhagesan, Micheal, Vincent, Rangan, Ramasamy, Sampath, Royappan, Govindan, Thambiran, and Chinnappan along with the Christians of that village to go to the (top of) Hillock-grotto in S.No.184/2, Alagusamuthiram Village on 19.04.2019 (Good Friday) from 2 P.M to 5 P.M to have the petitioner prayers, pending WP.No.11821 of 2019.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of SELVI GEORGE G., Advocate for the petitioner and of M.MOHAMED RIYAZ, Additional Public Prosector, on behalf of the Respondents, the court made the following order:-

This Miscellaneous Petition is filed seeking direction to the respondent to permit the petitioner and others along with Christian of the village to go to the Hillock-grotto in S.No. 184/2, Alagusamuthiram Village on 19.04.2019 (Good Friday) to have prayers from 2 PM to 5 PM.

2. The learned counsel for the petitioner submitted that the petitioner challenged the impugned order passed by the 1st respondent on the representation dated 26.03.2019 thereby refusing to permit the petitioner to enter the Hillock-grotto in S.No. 184/2, Alagusamuthiram Village. It is further submitted that the petitioner is a parish priest for the Christians in Soganti Village and adjacent to that village there is small Hillock which is classified as a porombokku-social forest, where they have a Grotto and a cross, which is situated in survey no. 184/2, Alagiasamudram Village. Every year on important festival days like Christmas, Palm Sunday and Good Friday, used to go there as a Christian congregation to have prayers.

3. The learned counsel further submitted that cases were also registered against the petitioner in the year 2017 in Crime Nos. 208 of 2017 and 217 of 2017 and the same were also converted in C.C. Nos. 225 of 2017 and 282 of 2017. Both the charge sheets have quashed by this Court in CrI.OP. Nos. 26985 of 2018 and 27060 of 2018. Thereafter, there is no complaint as against the petitioner or any, thereafter there no complaints as against the petitioner or his members of the village. Therefore, the learned counsel for the prayed for interim direction to direct the respondent to permit the petitioner to have prayer at grotto on 19.04.2019, which is situated on top of Hillock in S.No. 184/2 Alagasamuthiram Village, by considering his representation dated 26.03.2019 submitted to the respondents.

4. The learned Additional Public Prosecutor submitted that on the directions issued by this Court in CrI.OP. No. 9525 of 2019, the first respondent had conducted a detailed enquiry and rejected their representation, challenging the same, the present writ petition has been filed.

5. The learned Additional Public Prosecutor further submitted that the petitioner's representation was rejected for the reasons that the said place is a forest area situated in Survey No. 184/2, Alagusamuthiram Village and already there is a ban order to enter into the forest by revenue officials and there is a dispute between two religious groups namely Hindu and Christians and there is also law and order problem. Therefore, considering the above aspects, the petitioner's representation came to be rejected by the 3rd respondent. Though the order of this Court was passed on conditional grounds, it will create a law and order problem, if the petitioner and his other members are allowed to enter the forest for conducting prayers on Good Friday. Further, the learned Additional Public Prosecutor submitted that that if the petitioner and his members are allowed to enter the forest, they would encroach a portion of forest, which will affect the enquiry and also create law and

order problem between the groups,hence he prayed for dismissal of the petition.

6. Heard both sides and perused the materials available on record.

7. The Writ Petition has been filed to challenge the order passed by the first respondent dated 11.04.2019 on the representation of the petitioner seeking permission to enter into the forest area situated in Survey No. 184/2, Alagusamuthiram Village. It is also seen that in the year 2017, on the complaint lodged by the Village Administrative Officer, Alagusamuthiram Village, alleging that the petitioner and his members have encroached the forest land. In this regard, the order of the 2nd respondent directed to remove entire encroachment in the month of January'2017 itself and issued order of ban not to enter into the forest by the petitioner herein and other counter parts. In spite of the order passed by the 2nd respondent, the petitioner and his members have trespassed into the forest and encroached certain portion of forest land in Survey No. 184/2, Alagusamuthiram Village.

8. While, it being so, the petitioner has sought for interim direction, directing the respondents to permit the petitioner and his group to enter into the forest land to conduct prayers on the Good Friday.

9. In view of the facts and circumstances of the case, this Court is not inclined to grant direction as sought for by the petitioner. Accordingly, the Miscellaneous Petition seeking interim direction is dismissed. No costs.

-sd/-

16/04/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMIL NADU
EXECUTIVE MAGISTRATE CUM THASILDAR,
THIRUKAZHUKUNDRAM,
KANCHEEPURAM DISTRICT.

2 THE SUB COLLECTOR
CHENGALPUT TALUK, KANCHEEPURAM DISTRICT.

3 THE INSPECTOR OF POLICE
TALUK POLICE STATION, CHENGALPUT TALUK,
KANCHEEPURAM DISTRICT.

C.C. to SELVI GEORGE G. Advocate SR.NO..no.6479

The Additonal Public Prosecutor, High Court, Madras - 104.

Order

in

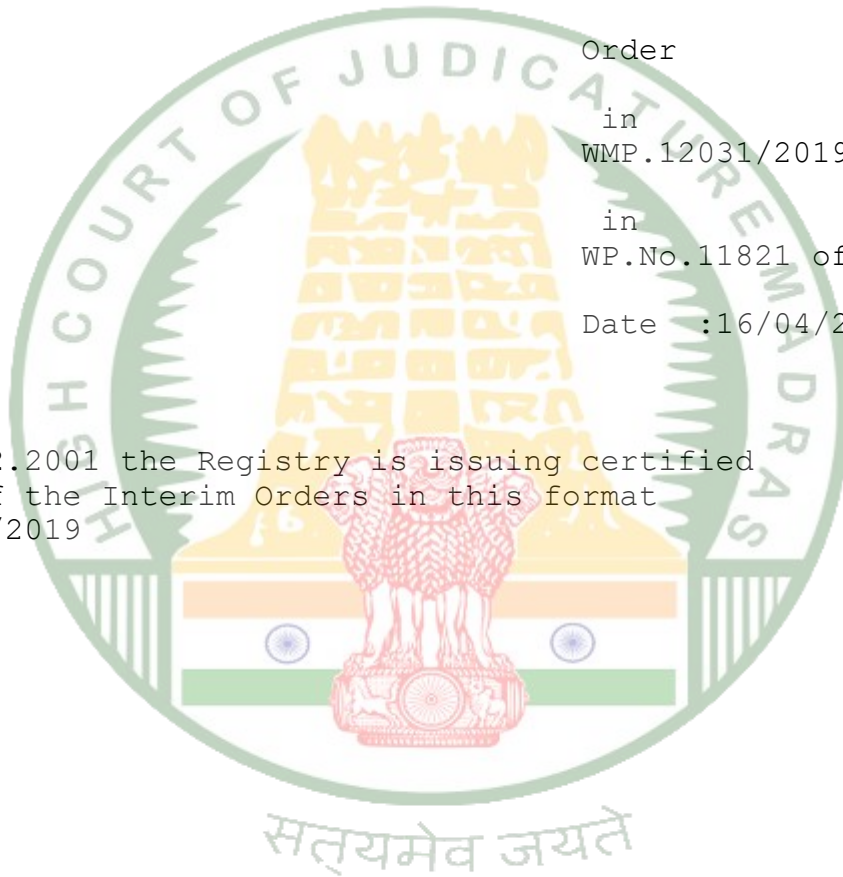
WMP.12031/2019

in

WP.No.11821 of 2019

Date :16/04/2019

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RR 02/05/2019



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