

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. No. 26552 of 2019

and

W.M.P. No. 25926 of 2019

B.V.B. Madhavaraj,

The Secretary,

Representing "Iruvamanai Avaru" of Devangar sect,

S/o. V. Pasuvappa Chettiar,

9-2, 157, Thirumalai Street,

Elampillai (P.O.),

Salem District - 637 502.

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Tourism, Culture & Charitable Endowments Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam,
Chennai - 600 034.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem District,
Salem.
5. R. Moulishankar
6. M. Amirthalingam
7. S. Vasudevan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First to Fourth Respondents to forbear the Seventh Respondent and his community "Palaylaru Vangusathar" from violating the orders passed by this Court as directed in the Writ Petition No. 40412 of 2016 dated 08.04.2019 for performing the function "60 Koodi Kumbidum Vizha - 2019".

For Petitioner : Mrs. Hema Sampath,
Senior Counsel for
Mr. B. Vijayakumar

For Respondents : Mr. M. Maharaja,
Special Government Pleader (HR & CE)
(for R1 to R4)

Mr. R. Babu (for R5 & R6)

Mr. V.V. Sairam for
Mr. S. Elumalai (for R7)

O R D E R

The Writ Petition has been filed for a direction to the First to Fourth Respondents to forbear the Seventh Respondent and his community "Palaylaru Vangusathar" from violating the orders passed by this Court as directed in the order dated 08.04.2019 in W.P. No. 40412 of 2016 for performing the function "60 Koodi Kumbidum Vizha - 2019".

2. Heard Mrs. Hema Sampath, Learned Senior Counsel assisted by Mr. B. Vijayakumar, Learned Counsel for the Petitioner, Mr. M. Maharaja, Learned Special Government Pleader (HR & CE) appearing for the First to Fourth Respondents, Mr. R. Babu, Learned Counsel for the Fifth and Sixth Respondents and Mr. V.V. Sairam, Learned Counsel assisted by Mr. S. Elumalai, Learned Counsel for the Seventh Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. This by an order dated 08.04.2019 in W.P. No. 40412 of 2016 had passed the following order:-

"3. After hearing the parties for sometime, without going into the merits of the matter, the following arrangement was agreed with by both the

parties :

(i) The petitioner, who is known as Balelaru Vangusam Committee, is permitted to perform the aforementioned "60 Koodi Kumbidum Vizha" outside the temple, which is also permitted by the first respondent in the impugned order. The respondents 5 to 7 have no objection for the same.

(ii) After performing the "60 Koodi Kumbidum Vizha", which is conducted outside the temple, the petitioner Balelaru Vangusam Committee is permitted to perform Abishegam and offerings to the main deity inside the temple on the same day.

(iii) The third respondent is directed to fix the date, on which the said Vizha could be conducted and ensure that the date fixed should not overlap with the date proposed by the private respondents.

(iv) The third respondent is also directed to ensure the maintenance of peace inside and outside the temple premises during the performance of the Vizha as well as Abishegam, with the assistance of the jurisdictional police.

(v) The respondents 5 to 7 are directed to extend their cooperation for conducting the Vizha and the Abishegam.

(vi) The parties shall appear before the third respondent for all the hearings and extend their co-operation in this regard.

(vii) The above arrangement shall continue for the future also, till a decision is taken finally under Section 63 of the Hindu Religious and Charitable Endowments Act, 1951."

4. The apprehension of the Petitioner is that the invitation circulated by the Seventh Respondent is in violation of the order dated 08.04.2019 in W.P. No. 40412 of 2016 as it creates an impression as if the Abishegam would be conducted on 13.09.2019 instead of last day of function, which falls on 14.09.2019 as fixed the aforesaid order passed by this Court. It is clarified in the affidavit dated 06.09.2019 filed by the Seventh Respondent in this regard, as follows:-

"2. I state that in terms of the order passed in W.P. No. 40412 of 2016 I HEREBY CATEGORICALLY UNDERTAKE TO HAVE THE 60 KOODI KUMBIDUM VIZHA OUTSIDE THE TEMPLE IN A PLACE BELONGING TO ONE Mr. S. MURUGAN IN SURVEY NO. 74/2, IN PATTA NO. 670 WHICH IS MORE THAN 200 FEET AWAY on 13.09.2019 the temple will perform pooja & Abishekam. On 14th we will go inside the temple to perform pooja & Abshekam after our function."

Learned Senior Counsel appearing for the Petitioner submits that the aforesaid clarification made by the Petitioner is in accordance with the earlier order passed by this Court.

5. In view of the aforesaid submissions made, the Writ Petition stands disposed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Principal Secretary, State of Tamil Nadu,
Tourism, Culture & Charitable Endowments Department,
Secretariat,
Fort St. George, Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam,
Chennai - 600 034.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem District, Salem.

+1cc to Mr.S.Elumalai , Advocate SR.No. 77425

+1cc to Mr.B.Vijayakumar , Advocate SR.No. 77358

+1 cc to Spl Government Pleader Sr.No. 77679

W.P. No. 26552 of 2019

A.SK(10/09/2019)