

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Reserved on : 13.02.2019
Delivered on : 20.02.2019
CORAM
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.31288 of 2018

M.Subash

..Petitioner

Vs

1. The District Collector,
Namakkal District
Namakkal - 637 003.
 2. The Deputy Superintendent of Police,
Rasipuram,
Namakkal District - 637 408.
 3. The Assistnat Director,
Town Panchayats,
Salem.
 4. The Executive Officer,
Vennandur Town Panchayat,
Namakkal District.
 5. The President,
Sengunthar Thirumana Mandapam,
No.1/152 Thanga Salai Veethi,
Vennadur,
Namakkal District.
 6. The President,
Sulukku Pillayar Thirumana Mandapam,
No.14/8, Thanga Salai Veethi,
Vennadur,
Namakkal District.
 7. The President,
Boopathi Mariamman Sengunthar Samooga Koodam
No.6/234 1 Periya Veethi,
Vennadur,
Namakkal District.
- ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to investigate the matter in accordance with the provisions under the SC/ST's (Prevention of Atrocities)

Amendment Act, 2015 and subsequently take appropriate action against the respondents 5 to 7 in accordance with law pursuant to the petitioner representation dated 14.06.2018.

For Petitioner : Mr.A.G.Narasimhan
For R1 to R4 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R5 to R7 : Mr.C.Prabakaran

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O R D E R

This petition is filed seeking for a Writ of Mandamus directing respondents 1 to 4 to investigate the matter in accordance with the Provisions under the SC/ST's (Prevention of Atrocities) Amendment Act, 2015 on the representation submitted by the petitioner dated 14.06.2018.

2. The learned counsel for the petitioner would submit that the petitioner belongs to Schedule Caste Community and in his village, about 500 people belonging to the same community are living and most of their community people are performing marriage functions and other ceremonies outside of their village, since they have been denied access to the public marriage hall owned by respondents 5 to 7 herein. He further submitted that on so many occasions, the petitioner and their relatives had approached respondents 5 to 7 to perform their marriages and to their shock and surprise they were denied access or to use the marriage halls. The untouchability practice is existing in their village and as such, the petitioner was put to untold hardship and subjected to mental agony. Therefore, the petitioner sent a representation on 14.06.2018 to respondents 1 and 2 to take appropriate action as against the respondents 5 to 7 herein to ensure his fundamental right. Though, it was forwarded to respondents 3 and 4, no action has been taken. Again, on 05.07.2018, he had sent another representation to the third and fourth respondents but it was of no avail. Therefore, he prayed to allow the writ petition.

3. Per contra, the learned counsel for respondents 5 to 7 herein filed a counter and submitted that the writ petition itself is not maintainable in the eye of law and it has to be dismissed on the ground of locus standi. The relief sought for in the Writ Petition is against the marriage halls owned and administered by a particular community, which have been donated by the forefathers of the community for the welfare and development of the said community. Further he submitted that

the properties are owned by individuals and the same cannot be questioned by any other person who have no right or interest in the halls maintained by respondents 5 to 7. He also denied the allegations made in the Writ Petition as false and frivolous as no such incident happened when the petitioner and their relatives approached to have the marriage functions in their marriage halls. Further, he submitted that the petitioner through his whatsapp is defaming the community of respondents' 5 to 7 and the goodwill of the marriage halls with false and frivolous allegations. Further, he submitted that though they are protected under the Constitution by enactment of an individual act namely Scheduled Caste/Scheduled Tribes Prevention of Atrocities (Amendment) Act, 2015, the said act has been misused by persons who belong to their community to achieve their goals by foisting cases against other community people. Hence, he prayed for dismissal of this petition.

4. The learned Additional Public Prosecutor submitted that in respect of the representation received from the petitioner, the Inspector of Police, Vennadur Police Station conducted a detailed enquiry and on enquiry, respondents 5 to 7 submitted their statement stating that the Sengunthar Thirumana Mandapam at Thanga Salai Veethi, Vennadur purchased in the year 1975 by L.Kandasamy Mudaliar and K.R.Krishnasamy Mudaliar and thereby it has been gifted to Sengunthar Community people. Even before 30 years the said marriage hall was constructed only with the money which was collected from the particular community and they had decided that the said marriage hall could be used only for the purpose of welfare of that particular community people. As far as the sixth respondent is concerned, he submitted his statement stating that in the year 1933 only for the welfare of the particular community one S.Kandasamy Mudaliar purchased and constructed the marriage hall. In so far as the 7th respondent is concerned, the land in which the marriage hall now stands, was purchased in the year 1988 and the marriage hall was constructed even before 16 years and it is also used only for the purpose of the particular community. Further, he contended that such kind of prayer is not at all maintainable by way of a Writ Petition and therefore, he prayed for dismissal of this petition.

5. Heard, Mr.A.G.Narasimhan, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for respondents 1 to 4 and Mr.C.Prabakaran, learned counsel for respondents 5 to 7.

6. The petitioner in this Writ Petition seeks a direction to the official respondents to take action on his representation against respondents 5 to 7 herein. Further, the consequential prayer in this Writ Petition is to direct the official

respondents to take appropriate action as against respondents 5 to 7 in accordance with the Provisions under the SC/ST's (Prevention of Atrocities) Amendment Act, 2015. It seems that the marriage halls were constructed by respondents 5 to 7 herein only for the welfare of their own community and also marriage halls are administered by that particular community people since the lands were donated by their forefathers of their community for the welfare and development of their community. That apart, the marriage halls are owned by private individuals and it cannot be questioned by any other third party.

7. It is also seen that there is no allegation to attract the offence under the SC/ST's (Prevention of Atrocities) Amendment Act against respondents 5 to 7 herein. As such, the prayer sought for in this writ petition is not at all maintainable under Article 226 of the Constitution of India. Further the petitioner has no right or power over the property belonging to respondents 5 to 7 herein and as such they do not have a right in respect of providing marriage halls to the petitioner or his community people in the village for marriage functions. It is upto respondents 5 to 7 to decide whether the marriage hall is to be provided for marriage or not. It cannot be questioned by any private individual. Therefore, the prayer sought for in this writ petition cannot be granted and the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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4. The Executive Officer,
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Namakkal District.

+1cc to M/s.S.Ashok Kumar, Advocate sr.no.15519

W.P.No.31288 of 2017

cp(co)
nr 26/03/2019



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