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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 25.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

**W.P. (MD) No.6948 of 2019**

**and**

**W.M.P (MD) .No.5539 of 2019**

Chinnasamy

... Petitioner

Vs

1.The Revenue Divisional Officer,  
Devakottai, Sivagangai District.

2.The Tahsildar,  
Devakottai Taluk, Sivagangai District.

3.R.Ganesan

4.R.Kaliammal

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to forbear the respondents from interfering with the petitioner's right to conduct Poojas during Panguni festival.

For Petitioner : Mr.G.Thiruvarutselvan

For R1 & R2 : Mr.M.Rajarajan  
Government Advocate

For R3 : Mr.Anandakumar

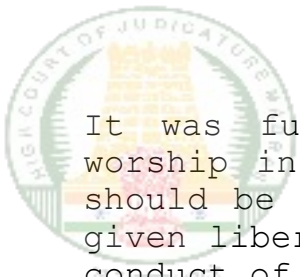
For R4 : Mr.R.M.Arun Swaminathan

**ORDER**

Heard the learned counsel on either side.

2. The petitioner, namely Chinnasamy apprehends that his right to conduct Pooja during Panguni Festival in Shri Balamariamman Temple, Manambuvayal Village, Devakottai Taluk will be affected.

3. When the matter was taken up for hearing, the learned counsel appearing for the respondents informs the Court that the third respondent herein had already filed a petition in W.P(MD). No.6267 of 2019 and the said writ petition was disposed of on 18.03.2019. In fact, the said order has been enclosed by the writ petitioner himself in the typed set of papers. The prayer made in the said writ petition was for directing the authorities to provide police protection for the peaceful conduct of the festival in question from 19.03.2019 to 27.03.2019. The learned Judge of this Court directed the Tahsildar, Devakottai Taluk to depute an appropriate person to conduct the festival. Liberty was given to the third respondent herein, namely Thiru.Ganesan as well as the rival parties to make their contributions for conducting the same.



It was further observed that both the parties are entitled to worship in the temple. It was further directed that the festival should be conducted as per Hindu Agama/Culture. The Tahsildar was given liberty to seek police protection also for ensuring the smooth conduct of the festival.

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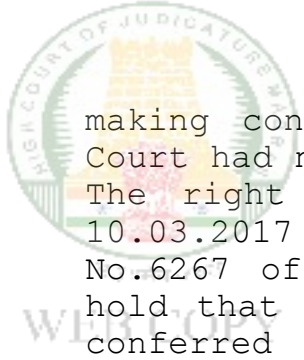
4. The stand of the third respondent in particular is that in view of the aforesaid order, the present writ petition itself is not maintainable. He would further claim that the learned Judge attempted to amicably resolve the issue by involving the writ petitioner herein. Since the efforts at conciliation were not fruitful, the writ petition was disposed of with the aforesaid directions. The learned counsel would also make a claim that few other developments took place, but then this Court cannot take cognizance of what is not on record.

5. The scope of W.P(MD).No.6267 of 2019 was very simple. It wanted the festival to be conducted under police protection. Since the parties could not arrive at an amicable solution, the Tahsildar was directed to conduct the temple festival. The said direction is holding good because it has not been challenged by filing a writ appeal.

6. Today Mr.Bharathiraja, Assistant, attached to the Taluk Office is present in person. This Court wanted to know who will officiate as the temple priest. The answer given is that one Village Assistant by namely Gopi has been directed to act as the temple priest.

7. In the order dated 18.03.2019, there is a reference to the decree dated 10.03.2017 made in O.S.No.27 of 2015 on the file of the District Munsif Court, Devakottai. It is further recorded in the order dated 18.03.2019 that an appeal has been filed questioning the said decree. The said suit in O.S.No.27 of 2015 was filed by the writ petitioner Chinnasamy. The Civil Court declared that Thiru.Chinnasamy/writ petitioner herein is entitled to function as Poojari of the temple in question during the Panguni Festival and also take Karagam. A permanent injunction has been granted restraining the defendants from interfering with the said right of the writ petitioner. Thiru.Ganesan / the third respondent herein, who is the petitioner in W.P(MD).No.6267 of 2019 was shown as the first defendant in the said suit. This Court posed a question to the learned counsel appearing for the third respondent herein as to whether the operation of this decree has been suspended. Thiru.Anandakumar, learned counsel appearing for the third respondent submitted that the injunction decree granted against him continues to be in force, though it is the subject matter of challenge in first appeal.

8. Therefore, the Tahsildar can only conduct the festival. He cannot appoint anybody as the temple priest. If this Court in W.P(MD).No.6267 of 2019 had appointed a temple priest, it would be a different matter altogether. This Court did not do so. After



making conscious reference to the earlier suit proceedings, this Court had not given any finding on the right of the said Chinnasamy. The right of Chinnasamy conferred in terms of the decree dated 10.03.2017 in O.S.No.27 of 2019 was not taken away in W.P(MD). No.6267 of 2019. Therefore, this Court will have to necessarily hold that the petitioner herein is entitled to enforce the rights conferred on him by virtue of the said decree. So long as the decree in favour of the writ petitioner is holding good, the respondents cannot interfere with the petitioner's rights to conduct the Pooja during the Panguni Festival.

9. The Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS I)

To

1.The Revenue Divisional Officer,  
Devakottai, Sivagangai District.

2.The Tahsildar,  
Devakottai Taluk, Sivagangai District.

1 CC to M/s.J.ANANDKUMAR, Advocate ( SR-56364[F] dated 25/03/2019 )

+1 CC to M/s.G.THIRUVARUTSELVAN, Advocate ( SR-56368[F] dated 25/03/2019 )

rmk

**W.P. (MD) No. 6948 of 2019**

**25.03.2019**

**DS/ /SAR- (25.03.2019) 3P 5C**