



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P. (MD)No. 16509 of 2019

and W.M.P. (MD) Nos.13161, 13162, 14738 and 15646 of 2019

P.K.N.Periyasamy

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer
Aruppukottai,
Virudhunagar District.

3.The Tahsildar,
Kariapatti
Virudhunagar District.

4.K.Balasubramanian

5.G.Periyasamy

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 2nd respondent made in Na.Ka.A2/3572/2019 dated 12.07.2019 and quash the same as illegal, unwarranted and consequently directing the 2nd respondent to permit the petitioner's Chinna Ambalam Vagaiyara to conduct the Sri Andisamy Temple festival/Kalari Vizha from 05.09.2019 to 07.09.2019 at Keela Uppilikundu, Mela Uppilikundu Post, Kariyapatti Taluk, Virudhunagar District.

For Petitioner

:Mr.K.Baalasundaram for
Mr.M.Jegadeeshpandian

For Respondents

:Mr.B.Bhagawathi for R1 to R3
Government Advocate
Mr.V.Vishnu for
Mr.K.S.Duraipandian for R5
No appearance for R4



ORDER

Mr.K.Baalasundaram, learned counsel, representing the counsel on record, for the writ petitioner, Mr.B.Bhagawathi, learned Government Advocate, for respondents 1 to 3 (official respondents) and Mr.V.Vishnu, learned counsel, representing the counsel on record, for the 5th respondent (Private respondent) are before this Court.

2.To be noted, fourth respondent, who is also a private respondent, has refused to receive Court notice. The case file placed before this Court makes it clear that the Court notice has been refused by the fourth respondent. In this backdrop, the main writ petition itself is taken up with the consent of all the aforesaid learned counsel.

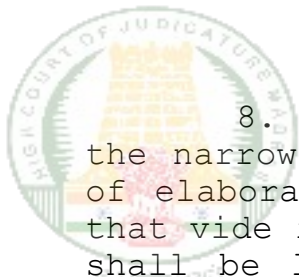
3.Before making this order, it is made clear that the fourth respondent will remain bound by this order and fourth respondent cannot be heard to contend or agitate that he was not before this Court, as Court notice has been issued on 25.07.2019 and the case file reveals that fourth respondent has refused to receive Court notice on 30.07.2019.

4.It is also made clear that not only the main writ petition is taken up by consent, the order that is being passed now is also a consent order, ie., consent common to all three counsel and the respective parties, who are before this Court.

5.Nucleus of this entire writ petition is a temple, which goes by the name, 'Sri Andisamy Temple', at Keela Uppilikundu Village, Mela Uppilikundu Post, Kariyapatti Taluk, Virudhunagar District (hereinafter 'said temple' for brevity, clarity and convenience).

6.If the aforesaid temple is the nucleus of this matter, a festival in the said Temple, which goes by the name, "Kalari Vizha", is the central theme of this *lis* and this festival shall hereinafter referred to as 'said festival' for the sake of brevity, clarity and convenience.

7. Certain discrepancies and disputes arose between two groups of individuals belonging to the Keela Uppilikundu Village regarding conduct of said festival in said temple, as these discrepancies and disputes escalated, the same went before the second respondent, ie., jurisdictional 'Revenue Divisional Officer' ('RDO' for brevity) and the RDO passed an order 'dated 12.07.2019 bearing reference No. Na.Ka.A2/3572/2019' (hereinafter 'impugned order' for the sake of brevity, clarity and convenience).



8. Considering that this is a consent order and considering the narrowed down scope of the whole matter now, short facts shorn of elaboration will suffice and therefore it would suffice to say that vide impugned order, third respondent directed that said temple shall be locked and the key shall be handed over to the revenue department. There is no disputation that this has happened. Thereafter, instant writ petition came to be filed and my learned predecessor Judge passed an order dated 01.08.2019. Most relevant part of the order is articulated in Paragraph 2 and the same reads as follows:

2..... "This is only an interim arrangement for the purpose of allowing the devotees to enter into the Temple and worship the God and with regard to the rights of conducting Temple function between the two groups, the issue can be decided later. The aforesaid exercise shall be undertaken by the respondents 1 to 3, ie., the Revenue People, within a period of one week from the date of receipt of a copy of this order."

9. There is also no disputation that pursuant to aforesaid interim arrangement order made by learned predecessor Judge, the said temple has been opened and it has now been thrown open for daily worship.

10. The issue now pertains to conduct of ensuing Kalari festival.

11. It is submitted that dates on which said festival has to be conducted every year is a matter of convention that this year the said festival has to be conducted on 5th, 6th and 7th of September '2019.

12. Mr. B. Bhagawathi, learned Government Advocate, representing the official respondents and more particularly, the RDO (second respondent) submits that it would be possible to conduct the said festival on aforementioned dates. Learned counsel for writ petitioner submits that it is imperative that the said festival is conducted without reference to the rights and contentions of the parties, as it is a custom, which cannot be breached. It is submitted that there is a belief that breach in conduct of said festival will incur the wrath of the presiding Deity. In this backdrop and in this spirit, learned counsel for the writ petitioner submitted that it is well open to the fifth respondent to conduct the said festival albeit under the supervision of the RDO.

13. It is made clear that the writ petitioner's rights and contentions are left open, the fifth respondent's rights and contentions also remain left open and fifth respondent conducting said festival on aforementioned dates will not confer any rights in future and will not vest in the fifth respondent any rights in



14. In this backdrop, it is submitted by writ petitioner that such an arrangement is agreed to, as it is a matter of faith that the said festival ought to be conducted on these three dates, as alluded to supra.

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15. To be noted, the aforesaid submissions have been made by learned counsel for the writ petitioner as well as the learned counsel for the fifth respondent, on instructions, from respective parties present in Court.

16. The second respondent RDO shall make every endeavour to not only ensure smooth conduct of the said festival, but also douse the differences between the parties. Counsel for writ petitioner and fifth respondent, on instructions, submit that the parties will also extend their utmost cooperation and ensure that a congenial atmosphere prevails.

17. It is submitted by the learned counsel for the fifth respondent that a suit has also been filed, pursuant to impugned order, being O.S.No.171/2019 on the file of the Sub Court, Aruppukottai. This order is concluded in the hope that efforts of RDO culminates in a compromise decree in the suit.

18. The question as to whether said Temple is a private temple is left open, as implead application is also being closed in view of this consent order.

19. Instant Writ Petition is disposed of accordingly. Consequently, W.M.P.(MD) Nos.13161, 13162, 14738 and 15646/2019 are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer
Aruppukottai,
Virudhunagar District.

3.The Tahsildar,
Kariapatti
Virudhunagar District.



+1 CC to M/s.K. BALASUNDRAM, Advocate (SR-85178[F] dated 04/09/2019)

+1 CC to M/s.K.S. DURAIPANDIAN, Advocate (SR-85229[F] dated 05/09/2019)

+3 CC to M/s.K. BALASUNDARAM, Advocate (SR-85373[F] dated 05/09/2019)

+1 CC to M/s.SPL GP (SR-85342[F] dated 05/09/2019)

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JM/05.09.2019/5P/10C