

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. Nos.10027, 10822 of 2012
and 32787 of 2015
and
MP No.1 of 2015

Kakkan Selvakumar Petitioner
in W.P. No.10027 of 2012
R.Vijayaragavan
P. Selladurai*
* Petitioner substituted as per order
dated 13.11.2014 in
MP No.1 of 2014 Petitioner
in W.P No.10822 of 2012
ArunachalamPetitioner
in W.P. No.32787 of 2015

Vs

- 1.The Joint Commissioner,
Hindu Religious &
Charitable Endowment Department,
Salem District.
- 2.The Executive Officer,
Sri Baladhandayathabani Murugan Temple,
Sentharappatti village,
Salem District.
- 3.The District Collector,
Salem District,
Salem.
- 4.The Superintendent of Police,
Salem District,
Salem.
- 5.The Tahsildar,
Gangavalli,
Salem District,Salem.

6.The Inspector of Police,
Thammampatti Police Station,
Salem District,
Salem.

7.Vijayaraghavan
8.Rajendran
9.Ramalingam
10.Selladurai
11.Arunachalam
12.Kandasamy

...Respondents in
W.P. No.10027 of 2012

1.The Executive Officer,
Sakkarathalwar Perumal Temple,
Thermutti,
Sentharpatti Village,
Gangavalli Taluk,
Salem District - 636 110.

2.The Tahsildar,
Gangavalli,
Gangavalli Taluk,
Salem District.

3.The Inspector of Police,
Town Police Station,
Thammampatti,
Salem District.

4.Saravanan
5.Manikkavel
6.Selvakumar
7.Rajaram
8.Murugesan

... Respondents in W.P. No.10822 of 2012

1.The District Collector,
Salem District,
Salem.

2.The Tahsildar /
Divisional Executive Magistrate,
Gengavalli Taluk,
Salem District.

3.The Assistant Commissioner
HR & CE Department,
Salem District, Salem.

4.The Inspector of Police,
Thammampatti Police Station,
Thammampatti,
Salem District.

...

Respondents in
W.P. No.32787 of 2015

Prayer in W.P. No.10027 of 2012: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus to direct the respondents 1 to 6 not to give permission to the respondents 7 to 12 or their men, representatives to perform the Thiruther festival without the peoples belongs to Schedule caste community to conduct the pooja festival, God procession or any other activity relating to the temples namely Sri Baladhandayathabani Murgan Koil, Angalamman Koil, Selliamman Koil, Pillaiar Koil, Mariamman Koil, Chakarathalvar Perumal, Karuppannasami, Angalaparameswari and Dharmaraja Koil situated at Sentharappatti Village, Gangavalli Taluk, Salem District.

Prayer in W.P. No.10822 of 2012: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent herein dated 12.04.2012 and quash the same and consequently direct the respondents 1 to 3 herein to give permission for conducting the yearly temple procession in petitioner's village namely, Sentharapatti Village, Gangavalli Taluk, Salem District.

Prayer in W.P. No.32787 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the entire records in connection with the impugned proceedings of the 2nd respondent dated 8.8.2015 in Che.Mu.Na.Ka.4810/2015 (A1) and quash the same and consequently direct the respondents to render adequate protection and safeguards for conducting the pooja as well as the procession of the temples namely Perumal Temple, Angala Amman Temple, Selli Amman Temple, Vinayagar Temple and Mariamman Temple in Sentharapatti Village & Post, Gengavalli Taluk, Salem District.

For W.P. No.10027 of 2012

For Petitioner : Mr.P.Vijendran
For Respondents : Mr.R.Venkatesan
for R1 & 2
Mrs.K.Bhuvaneswari
Additional Govt. Pleader
for RR3 to 6

For W.P. No.10822 of 2012

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.R.Venkatesan

HR & CE

for R1

Mrs.K.Bhuvaneswari

Additional Govt. Pleader

for RR2 and 3

For W.P. No.32787 of 2015

For Petitioner : Mr.M.Sriram

For Respondents : Mr.R.Venkatesan

HR & CE

for R1

Mrs.K.Bhuvaneswari

Additional Govt. Pleader

for RR2 and 3 R4

COMMON ORDER

These writ petitions are filed in connection with the yearly temple festival conducted at various temples at Sentharapatti Village, Gangavalli Taluk, Salem District.

2. These writ petitions are taken up together and disposed of by a common order.

3. Heard the learned counsels on either side in all these writ petitions.

4. By the impugned order dated 12.04.2012, the concerned respondent / Tahsildar, Gangavalli Taluk, Salem District, the second respondent in W.P. No.10822 of 2012 has rejected the petitioner's application on the ground that another writ petition namely W.P. No.10027 of 2012 filed by a rival group is pending. The sixth respondent in W.P.No.10822 of 2012 and the petitioner in W.P.No.10027 of 2012 has prayed for a direction to restrain the Government authorities from permitting the villagers to take out the procession.

5. Likewise, by the impugned order dated 08.08.2015, the concerned respondent / Tahsildar /Divisional Executive Magistrate, Gangavalli Taluk, Salem District, the second respondent in W.P. No.32787 of 2015 has rejected the petitioner's application on the ground that another writ petition namely W.P. No.10027 of 2012 filed by a rival group is pending.

6. The learned counsel drew the attention of this Court to an order dated 15.11.2011 passed in W.A. 3813 of 2019 by the First Bench of this Court and submitted that right to worship is a constitutionally protected right and in the event of any law and order problem, the police have the power to regulate the right to worship.

7. The relevant paragraphs of the order of the First Bench of this Court referred to supra reads as follows :

4. The right to free worship as is constitutionally protected can be regulated in the event of either any situation of law and order, or even of public order. The citizens at large cannot be exposed to any such dangerous social life that may unnecessarily interrupt their peaceful living, but, nonetheless, the right to worship to be totally curtailed in a particular manner may be excessive to the rule of regulation.

6. The learned Single Judge has rightly observed that even the earlier directions issued were to resolve the dispute and therefore, no further orders are required to be passed, but, we find that when the action of the authorities transcends the barrier of fundamental rights guaranteed under Article 25 of the Constitution of India, a complaint before this Court can be made for being redressed through an appropriate writ in the exercise of Article 226 of the Constitution of India.

7. Keeping in view the nature of enforcement of a right claimed before this Court, we find it appropriate to permit the appellant to approach the District Collector of Perambalur along with a certified copy of this order, who, keeping in view the local traditions and after ascertaining the views of the community at large, particularly of the village in question, may proceed to resolve the controversy in the wake of the fact that the Chariot festival has been held in the village for a fairly long time, subject to, of course, the maintenance of public peace and tranquility as guaranteed under the Constitution of India to the citizens of the State.

8. In the light of the aforesaid decision, this Court directs the respective petitioners in W.P. Nos.10822 of 2012 and 32787 of 2015 to approach the concerned respondents / The

Tahsildar, Gangavalli Taluk, Salem District and The Inspector of Police, Thammampatti Police Station, Thammampatti, Salem District / respondents in aforesaid writ petitions by giving a fresh representation seeking for permission to conduct the yearly temple procession at various temples at Sentharapatti village, Gangavalli Taluk, Salem District, within a period of one week from the date of receipt of a copy of this order.

9. On receipt of the aforesaid representation, the concerned respondents / The Tahsildar, Gangavalli Taluk, Salem District and The Inspector of Police, Thammampatti Police Station, Thammampatti, Salem District / respondents in aforesaid writ petitions after ascertaining the views of the community at large including the concerned private respondents in W.P. Nos.10822 of 2012 and 32787 of 2015 may proceed to resolve the controversy in the light of the fact that the temple festival has been held in the village for a long time about eighty years subject of course to the maintenance of public peace and tranquility as guaranteed under the Constitution of India to the citizens of the State, within a period of four weeks thereafter.

10. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

- 1.The Joint Commissioner,
Hindu Religious &
Charitable Endowment Department,
Salem District.
- 2.The Executive Officer,
Sri Baladhandayathabani Murugan Temple,
Sentharappatti village,
Salem District.
- 3.The District Collector,
Salem District,
Salem.

4.The Superintendent of Police,
Salem District,
Salem.

5.The Tahsildar,
Gangavalli,
Salem District,
Salem.

6.The Inspector of Police,
Thammampatti Police Station,
Salem District,
Salem.

7.The Executive Officer,
Sakkarathalwar Perumal Temple,
Thermutti,
Sentharpatti Village,
Gangavalli Taluk,
Salem District - 636 110.

8.The Assistant Commissioner
HR & CE Department,
Salem District,
Salem.

+1cc to Mr.G.Karthikeyan, Advocate SR.15049

+1cc to the Government Pleader SR.15692

+1cc to Spl Government Pleader(HR & CE) SR.15849

W.P. Nos.10027, 0822 of 2012
and 32787 of 2015

JP(CO)
CB(11/03/2020)

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