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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

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THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.33963 of 2019

and

W.M.P.Nos.34544, 34545 & 34547 of 2019

A/m Mela Mari Amman Temple
Rep. by its Hereditary Trustee
R.Somasundaram,
S/o, Late Ramalingam,
Thethakudi North,
Vedaranyam Taluk,
Nagapattinam District.

...Petitioner

-Vs-

1. The Superintendent of Police,
Nagapatinam District,
Nagapattinam.
2. The Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District.
3. The Tahsildar,
Vedaranyam Taluk,
Nagapattinam District.
4. The Executive Officer,
A/m Sugandhavaneshwarara
Swamy Thirukovil,
Pushpavanam,
Vedaranyam Taluk,
Nagapattinam District.
5. L.R.Selvam
6. K. Maheswaran

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India to issue a writ, order or direction or writ in the nature of Certiorarified Mandamus calling for the



records relating to the impugned order in Na.Ka.No.E1/PS/2019, dated 23.11.2019 passed by the 2nd respondent , quash the same and consequently forbear the respondents from interfering with the petitioner's right to take Utchavar of A/m Mela Mariamman Idol to the premises of the petitioner temple for performing poojas during Karthigai festival in all the years to come.

[Prayer amended vide order dated 13.12.2019 made in W.M.P.No.35273 of 2019]

For Petitioner : Mr.N. Manoharan

For R1 to R3 : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

For R5 and R6 : Mr.G.Nagarajan

ORDER

This petition has been filed to issue a Certiorarified Mandamus to quash the order passed by the second respondent in Na.Ka.No.E1/PS/2019, dated 23.11.2019 and consequently forbear the respondents from interfering with the petitioner's right to take Utchavar of A/m Mela Mariamman Idol to the premises of the petitioner temple for performing poojas during Karthigai festival in all the years to come.

2. The learned counsel for the petitioner has submitted that petitioner is a hereditary trustee of the A/m Mela Mari Amman Temple situated at Thethakudi, Vedaranyam Taluk, Nagapattinam District. He further submitted that the petitioner herein has already filed a suit in O.S.No.4 of 2017 on the file of the District Munsif cum Judicial Magistrate, Vedaranyam to delcare him as the hereditary trustee and obtained a decree in his favour on 03.02.2017. He further submitted that every year the petitioner used to bring the Utchavar idol of A/m Mela Mariamman Vigramam from the premises of the fourth respondent temple for performing poojas during the Karthigai festival. There was no hurdle or difficulty experienced by the petitioner all these years. He further submitted that the petitioner has filed a Writ Petition in W.P.No.32661 of 2019 before this Court to direct the fourth respondent herein to permit the petitioner to take the Utchavar idol of A/m Mela Mariamman Vigramam from the premises of the fourth respondent temple for performing poojas during the Karthigai festival and in the said Writ Petition, the Government Advocate has filed a letter which was issued by the fourth respondent wherein it has been stated that the petitioner herein has been permitted to take the Utchavar



idol of A/m Mela Mariamman Vigramam from the premises of the fourth respondent for performing poojas during the Karthigai festival and based on the said letter, the said Writ Petition was disposed of.

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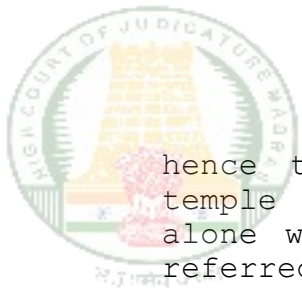
3. The learned counsel for the petitioner has further submitted that the petitioner has approached the second respondent on 23.11.2019 to provide necessary police protection for taking the Utchavar idol of A/m Mela Mariamman Vigramam from A/m Sukandavanesara Swamy temple to the petitioner's temple and also to give police protection during the Karthigai festival. But, the second respondent has declined to grant police protection in view of the frivolous objections raised by the respondents 5 and 6 who are the close aids of Ex.M.L.A. He further submitted that on 23.11.2019, the second respondent has passed an order declining to give police protection for performing the festival. He further submitted that the second respondent is having no such power to decline the permission to the petitioner. He further submitted that if the respondents 5 and 6 are having any right, they have to either approach the Civil Court or before the HR&CE officials. Instead of that they cannot prevent the petitioner from performing the festival and therefore he prayed to quash the order passed by the second respondent.

4. In support of the aforesaid contentions, he relied upon the following decisions :-

(i) 2018 (1) Law weekly 466 [S.Natarajan Vs. The Commissioner, Hindu Religious and Charitable Endowments, Nungambakkam, Chennai]

(ii) Judgement made in W.P.No.3813 of 2019 of this Court dated 15.11.2019 [Varadaraj Vs. The District Revenue Officer, Collector Office, Perambalur District]

5. Per Contra, the learned counsel for the respondents 5 and 6 has submitted that the suit in O.S.No.4 of 2017 was filed by the petitioner against one R.Ambigabathy and the said Ambigabathy submitted to the decree. He further submitted that in the said suit, neither the respondents 5 and 6 nor the other villagers were added as parties and hence the decree which was obtained by the petitioner in O.S.No.4 of 2017 will not bind upon the respondents 5 and 6. He further submitted that the fourth respondent has issued a letter dated 21.11.2019 to permit the petitioner to take the Utchavar idol of A/m Mela Mariamman Vigramam, but, he has not permitted the petitioner to conduct the festival for the petitioner temple. He further submitted that the said temple is common to all the village people and



hence the village people are entitled to participate in the temple festival. But excluding the villagers, the petitioner alone wanted to perform the festival and hence the matter was referred to Tahsildar. He further submitted that the Tahsildar convened a peace committee meeting, in which the petitioner has participated, but he walked out of the said meeting abruptly and hence the peace meeting committee could not take any decision. He further submitted that taking into consideration of the aforesaid facts, the second respondent has rightly rejected the petitioner's request and the said order need not be quashed.

6. The learned Additional Public Prosecutor has adopted the arguments of the learned counsel for the respondents 5 and 6 and also opposed to quash the impugned order. He further submitted that since there is a dispute between the two rival groups with regard to performing temple festival, the parties have to either approach the Civil Court or to the HR&CE department and in the said disputed facts, this Court cannot interfere and hence he opposed this petition.

7. A perusal of the typed set of papers filed by the petitioner shows that the petitioner herein has filed a suit in O.S.No.4 of 2017 on the file of the District Munsif cum Judicial Magistrate, Vedaranyam against one Ambigabathy to declare him that he is a hereditary trustee and also to restrain the defendant therein from interfering with his peaceful administration of the said Trust. In that suit, the said Ambigabathy has submitted to the decree and hence the suit was decreed. It is to be pointed out that the said suit was not filed against the said Ambigabathy in a representative capacity and in such a case, the said decree will not bind upon the respondents 5 and 6.

8. It is also to be pointed out that the fourth respondent by the letter dated 21.11.2019 has stated that he has no objection to grant permission to the petitioner to take the Utchavar idol of A/m Mela Mariamman Vigramam during the festival. But he has not been permitted to perform the festival for the said temple. What can be inferred from the said letter is that if festival is performed and during the said festival, the petitioner can take the Utchavar idol of A/m Mela Mariamman Vigramam. During festival, so many events may take place. One such event is taking Utchavar idol. In this petition, there is no dispute with regard to taking the Utchavar idol. The main issue here is with regard to performing the festival itself. Therefore based on the aforesaid letter issued by the fourth respondent, the petitioner cannot claim that he has been permitted to perform the festival itself.



9. It is seen from the order passed by the second respondent that the peace committee meeting was convened by the Tahsildar and in that meeting the petitioner also participated. But he walked out of the said meeting and hence the said committee has not taken any decision. Under the said circumstances, the second respondent has passed an order that if any permission is granted to the petitioner for performing the festival that would create a law and order problem.

10. In S.Natarajan Vs. The Commissioner, Hindu Religious and Charitable Endowments, Nungambakkam, Chennai (cited supra) there was no serious dispute with regard to conduct of the Mandapa Kattalai Pooja by the petitioner, what was being objected before the Court was against the so called prominence or exclusiveness said to have been claimed by the petitioner. This Court taking into consideration of the aforesaid facts, has permitted the petitioner to perform pooja without taking any prominence or exclusiveness. But in the instant case, the facts are totally different. Hence, the said judgment will not help the petitioner in this case.

11. In Varadaraj Vs. The District Revenue Officer, Collector Office, Perambalur District, (cited supra) the Hon'ble Division Bench taking in to consideration of all the facts and circumstances of the case, permitted the appellant to approach the District Collector of Perambalur along with the certified copy of the said order and directed the District Collector to resolve the controversy by keeping in view of the local traditions and after ascertaining the views of the community at large, particularly of the village in question and resolve the controversy. In this case, already the Tahsildar has initiated steps to resolve the issue between the parties by convening a meeting. But the petitioner has purposely walked out of the said meeting. Taking into consideration of all the aforesaid facts, the second respondent has rightly refused to give permission to the petitioner to conduct festival. This Court does not find any infirmity in the said order.

12. For the said reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



To

1. The Superintendent of Police,
Nagapatinam District,
Nagapattinam.
2. The Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District.
3. The Tahsildar,
Vedaranyam Taluk,
Nagapattinam District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Manoharan, Advocate sr.2500

+1cc to Mr.G.Nagarajan, Advocate sr.2510

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vsnii(co)
nr 23/01/2020