

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.34232 of 2019
&
W.M.P.No.34864 of 2019
and
Crl.O.P.No.1896 of 2020

W.P.No.34232 of 2019

Varadharajan

...Petitioner

-Vs-

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thiruchengode,
Namakkal District.

2.The Deputy Superintendent of Police,
P.Velur,
Namakkal District.

3.The Inspector of Police,
Velur Police Station,
Paramathy,
Namakkal District.

4.Appavoo

5.P.Kandhasamy
(Fifth respondent impleaded
vide order of this Court
dated 05.03.2020 made in
W.M.P.No.3038 of 2020
in W.P.No.34232 of 2019)

...Respondents

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Prayer in W.P.: Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.12/Velur P.S/2019 dated 28.11.2019 and quash the same as illegal and consequently direct the respondents to permit the petitioner for continuously to act as hereditary Dharmakarta in Arulmigu Srimariamman Temple and Bhagavathiamman Temple, Kuppuchipalayam at Namakkal District.

For Petitioner : Mr.R.Sankarasubbu
for G.Anbuchezean

For Respondents
For R1 to R3 : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

For R4 & R5 : Mr.Naveen Kumar Murthi

Crl.O.P.No.1896 of 2020

VaradharajanPetitioner

-Vs-

1.The Deputy Superintendent of Police,
Paramathy Velur Range,
Namakkal District.

2.The Inspector of Police,
Velur Police Station,
Paramathy,
Namakkal District.

...Respondents

Prayer in Crl.O.P.: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the impugned rejection order passed by the second respondent made in Na.Ka.No.1/Velur/Police Station/2020 dated 11.01.2020.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.M.Mohammed Riyaz
Additional Public Prosecutor.

COMMON ORDER

These petitions have been filed challenging the order passed by the Inspector of Police dated 28.11.2019 and 11.01.2020, thereby directing the petitioner not to indulge in any law and order problem while conducting the temple festival by the 5th respondent and also refused to grant permission to conduct festival for the Arulmigu Srimariamman Temple and Bhagavathiamman Temple, Kuppuchipalayam at Namakkal District.

2. The learned counsel appearing for the petitioner submitted that the petitioner was originally Dharmakarta of Arulmigu Srimariamman Temple and Bhagavathiamman Temple, Kuppuchipalayam at Namakkal District. Thereafter, a new set of people have elected the 5th respondent as new Dharmakarta of the said temple. Hence, he has given representations to the respondents police to perform the festival and poojas in the said temple. The representation of the petitioner was also rejected by the respondent police. Further, by the impugned order in this writ petition, the petitioner was directed not to indulge any law and order problem and also submitted a representation before the Revenue Divisional Officer, Tiruchengode, Namakkal District to ascertain his right. He has also conducted a peace committee meeting between the parties. Therefore, he prayed to allow both the petitions.

3. Per contra, the learned counsel appearing for the 5th respondent submitted that the 5th respondent has been newly elected as Dharmakarta in the Arulmigu Srimariamman Temple and Bhagavathiamman Temple, Kuppuchipalayam at Namakkal District. Therefore the 3rd respondent has rightly passed an order restraining the petitioner from indulging any illegal activities and also creating law and order problem. He further submitted that in fact the petitioner also requested the 3rd respondent for police protection to perform poojas for Arulmigu Srimariamman Temple and Bhagavathiamman Temple and the same was rejected by an order dated 11.01.2020.

4. The learned Additional Public Prosecutor submitted that only on the request of the petitioner, he was removed from Dharmakarta post in the Arulmigu Srimariamman Temple and Bhagavathiamman Temple and thereafter, the 5th respondent was elected as a new Dharmakarta. Therefore, the 3rd respondent rightly directed the petitioner not to indulge in the law and order problem by performing separate festival in the temple.

5. Heard Mr.R.Sankarasubbu, learned counsel appearing for the petitioner, Mr.Naveen Kumar Murthi, learned counsel appearing for the respondents 4 & 5 and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the

respondents 1 to 3.

6. Admittedly, the petitioner was the Dharmakarta in the above temple. The temple is not under the control of the HR & CE department and it is a private temple, some period of time, the petitioner himself relinquished his right as Dharmakarta. Thereafter, the 5th respondent was elected as Dharmakarta by the entire village. Following the same, the 5th respondent conducted the festival in the temple. It is also seen that after completion of festival of Arulmigu Srimariamman Temple and Bhagavathiamman Temple, the petitioner also sought for police protection to perform another festival for the very same temple on 08.01.2020 and 10.01.2020. Since the festival was already conducted by the newly elected Dharmakarta, police protection was rightly rejected by the 3rd respondent by an order dated 11.01.2020. Therefore, this Court finds no merit in these petitions and both are liable to be dismissed.

7. Further, the right of the petitioner to perform festival cannot be decided under Article 226 of the Constitution of India. However, if there is any dispute in respect of right over the temple between the petitioner as well as the respondents 4 and 5, the parties are at liberty to approach a competent civil Court for appropriate forum in the manner known to law. The petitioner is also at liberty to approach the Revenue Divisional Officer for their other dispute in respect of the temple.

8. With the above observations, both the writ petition as well as the criminal original petition are dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl/rts

To

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thiruchengode,
Namakkal District.

2.The Deputy Superintendent of Police,
P.Velur,
Namakkal District.

3.The Inspector of Police,
Velur Police Station,
Paramathy,
Namakkal District.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Ms.S.Varsha, Advocate, S.R.No.19690

+1cc to Mr.G.Anbucheziyan, Advocate, S.R.No.20405

W.P.No.34232 of 2019
&
W.M.P.No.34864 of 2019
and
Crl.O.P.No.1896 of 2020

GJ(CO)
RN(26/06/2020)

सत्यमेव जयते

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