

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.3250 of 2021

A.B.F.Rahamathullah,
S/o.Late Hajrat Faizeeshah Noori

...Petitioner

Vs.

1.The Inspector of Police,
Law and Order,
Kattumannarkoil,
Cuddalore District.

2.The Superintendent of Police,
Cuddalore,
Cuddalore District.

3.M.A.Fathaudheen

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, 1950 praying to issue a writ of Mandamus, directing the 1st and 2nd respondent police to provide police protection to conduct and perform religious festival of "URS Festival" and other related religious ceremonies to be held between 04.03.2021 to 06.03.2021 by considering the petitioner's representation dated 21.01.2021.

For Petitioner : Mr.B.Vijay

For R-1 & R-2 : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

ORDER

The Writ Petition has been filed by the petitioner seeking to issue a writ of Mandamus, directing the 1st and 2nd respondent police to provide police protection to conduct and perform religious festival of "URS Festival" and other related religious ceremonies to be held between 04.03.2021 to 06.03.2021 by considering the petitioner's representation, dated 21.01.2021

2.The learned counsel appearing for the petitioner would submit that the petitioner is the son of Late Hajrat Faizeeshah Noori, who died on 26.08.2005. The mortal remains of his father is buried in the property owned by him and

thereafter in the year 2006, the petitioner conducted "URS" Festival of his father. During the year 2007, there was an objection by a group of persons under the leadership of the late M.A.Fathaudheen, on the ground that the petitioner's father's body was buried without obtaining due permission from the Town Panchayat. Hence the petitioner filed a petition in Crl.O.P.No.22570 of 2007, before this Court seeking for police protection to conduct the festival of "URS" and this Court by an order dated 26.07.2007 had directed the police to grant protection to conduct the festival during the period between 03.08.2007 and 05.08.2007. Thereafter, the said M.A.Fathaudheen and his men filed two suits in O.S.No.50 of 2008 and O.S.No.45 of 2008, before the Subordinate Court, Chidambaram, to remove the mortal remains of the petitioner's father and they had also sought for a declaration that the petitioner and others are not entitled to perform URS and other religious function in the said disputed property and the said suits were decreed by the Judgment and order dated 21.12.2016. Against which, the petitioner had filed appeal suits in A.S.No.40 of 2016 and A.S.No.41 of 2016, on the file of the learned Additional District and Sessions Judge, Chidambaram, and they were also dismissed by the Judgment and order dated 29.01.2019. Against the concurrent finding of both the Courts below, the petitioner has filed second appeals in S.A.No.1001 of 2019 and S.A.No.1002 of 2019 and this Court by an order dated 21.01.2020 in CMP Nos.21548, 21549, 21559 & 21561 of 2019 had granted stay of the operation of the Judgment and decree and also granted stay for removing the mortal remains of the petitioner's father from the disputed property. He would submit that this Court taking into consideration, that the mortal remains of the petitioner's father have not been removed from the place of burial and finding that the Civil Court's decree have not been executed till date, earlier in Crl.O.P.No.7975 of 2016 dated 21.04.2016 and Crl.O.P.No.6829 of 2019, dated 26.03.2019 had directed the respondent police to provide police protection to the petitioner and his men to conduct URS festival in the disputed place pursuant to which, the petitioner had been conducting URS festival every year without any disturbance to anybody.

3.However, he would fairly submit that this Court taking into consideration the objection of the opposite party had permitted the petitioner to perform the URS festival without certain rituals viz., flag hoisting, sandal sprinkling and performing of Kawali songs. He would submit that in view of the earlier orders passed by this Court, the petitioner has approached this Court seeking for protection and would pray that a direction may be issued to the respondents to grant police protection to the petitioner and his men to conduct the URS festival. The learned Counsel would further submit that the petitioner came to understand that very recently the 3rd respondent has passed away due to covid-19 and thereby he is giving up the 3rd respondent in this writ petition.

4.The learned Government Advocate (Crl.Side) representing the respondent would submit that on the earlier occasions this Court in Crl.O.P.No.7973 of 2016, dated 21.04.2016 and Crl.O.P.No.6829 of 2019, dated 26.03.2019 had directed the respondents to provide police protection to the petitioner to conduct the URS Festival, in the burial place of the petitioner's father on payment of necessary charges and would submit that the respondents are prepared to provide necessary police protection to the petitioner herein.

5.Considering the above facts and circumstances and also taking into consideration the submissions made by the learned Government Advocate the first and second respondents are hereby directed to provide police protection to the petitioner to conduct the 16th URS Festival between 04.03.2021 and 06.03.2021 in the burial place of the petitioner's father viz., Hajrat Faizeeshah Noori on payment of necessary charges forthwith. The petitioner shall not conduct the rituals of flag hoisting, sandal sprinkling and perform Kawali songs at during the festival. The first respondent is also directed to ensure that the law and order is maintained in the place of festival and if any untoward incident happens, the first respondent is at liberty to proceed in accordance with law.

6.With the above directions, the Writ Petition stands allowed.

ssi

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
Law and Order,
Kattumannarkoil,
Cuddalore District.

2.The Superintendent of Police,
Cuddalore,
Cuddalore District.

3.The Public Prosecutor,
High Court of Madras.

+ 2 ccs to Mr. B. Vijay, Advocate SR.11990

W.P.No.3250 of 2021

MG(CO)

EU 2.03.2021

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