



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.10748 of 2017
and
W.M.P.No.11687 of 2017

Jamia Masjid Sunnath Val Jamath
V.Kalathur, Perambalur District,
Rep. by its Secretary,
A.Basheer Ahamed.

... Petitioner

-Vs-

1.The Collector,
Perambalur District,
Perambalur.

2.The Revenue Divisional Officer,
Perambalur.

3.Tahsildar,
Veppanthattai Taluk,
Veppanthattai, Perambalur District.

4.The Deputy Superintendent of Police,
Mangalamedu, Veppanthattai Taluk,
Perambalur District,

5.The Sub Inspector of Police,
V.Kalathur,
Perambalur District.

6.M.Ramasamy Udayar,
S/o.Muthusamy Udayar,
V.Kalathur Post,
Veppanthattai Taluk,
Perambalur District.

(R6 impleaded as per order dated 07.05.2017 in
W.M.P.No.12117 of 2017 in W.P.No.10748 of 2017)

... Respondents



PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the respondents from permitting any person to put up any construction in the name of temple or renovation of the Savady situated in S.No.119/1 of V.Kalathur Village.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.T.M.Pappiah, Spl.G.P, for R1 to R5

Mr.G.Karthikeyan, for R6

ORDER

(Order of the Court was made by N.KIRUBAKARAN, J)

This writ petition has been filed seeking writ of mandamus forbearing the respondents from permitting any person to put up any construction in the name of temple or renovation of Savady situated in S.No.119/1 of V.Kalathur Village.

2.The case of the petitioner is that the land in S.No.119/1 at V.Kalathur village is a Natham Poramboke to an extent of 0.30.0 H. It is a vacant land and on the northern side of the land, the burial ground of the Hindus is situated in S.No.119/9 and in S.No.119/8, the Kabarsthan of the Muslims is situated. Further, a limestone mixing tank is located in S.No.119/1. The entire lands were used only by the Hindus and Muslims during their festival time and during the festival seasons, a temporary thatched shed is used to be erected and once the festival is over, the said temporary structure would be removed. Further, the said place is also used a bus stop.

3.In the year 1951, some miscreants removed the Limestone mixing tank located in S.No.119/1 and put up a thatched shed and further prevented the Muslims from entering into the said land resulting in a communal clash. Thereafter, at the intervention of the elders, an agreement was entered into on 17.09.1951 agreeing to using the vacant land in S.No.119/1 commonly.

4.When things stand so, in the year 1980, some third parties put up a construction with a sign board stating that the said land belongs to Sri Lakshminarayana Perumal Koil. Pursuant to the said act, a suit has been filed before the District Munsif Court in O.S.No.484 of 1981 for injunction restraining the Hindus from putting up any construction in the aforesaid land. The Trial Court after considering the contention granted an order of injunction in I.A.No.1983 of 1984.



5. Thereafter, in the year 1990, there was police firing due to the communal clash on the eve of Ramzan on 27.04.1990. Subsequently, a compromise was entered into between the parties to keep the aforesaid land vacant. While that being so, in the year 2011, based on an article in a Tamil Magazine which described the land as "Theradi Mandapam" belonging to Hindus, some persons started collecting money for construction of Hindu Temple. In view of the same, the petitioner made a representation to the first respondent on 09.03.2016 requesting him not to permit any construction in the above said land in S.No.119/1.

6. As no order was passed in the said representation, a writ petition in W.P.No.29158 of 2016 was filed. In the said writ petition, counter affidavit was filed wherein it has been stated by the Tahsildar that a peace committee meeting was conducted on 04.05.2016 in which it was agreed that in S.No.119/1, music event can be conducted and there should not be any display of fire crackers in the said place. Further, both the religious groups agreed to conduct "Santhanakoodu" festival peacefully and the rest of the issue could be decided after the assembly elections. Based on the aforesaid counter affidavit, this Court closed the writ petition recording the counter affidavit filed by the third respondent.

7. Even after the conclusion of the assembly elections, as no steps were taken by the authorities to resolve the issue, the petitioner made a representation on 12.04.2017 to stop converting the above Savadi as Hindu temple. As no action was taken on the said representation, the petitioner has approached this Court seeking a direction prohibiting the official respondents from permitting any person to put up construction in the name of the temple or renovation of Savadi situated in S.No.119/1 of V.Kalathur Village.

8. Heard Mr.S.Doraisamy, learned counsel for the petitioner; Mr.T.M.Pappiah, learned Special Government pleader appearing on behalf of the State and Mr.G.Karthikeyan, learned counsel for the sixth respondent.

9. It is seen from the records that there has been some dispute with regard to the use of the land in S.No.119/1 in V.Kalathur village. When two parties, especially two religious groups claim the very same property, there shall be public tension in the area, like what has happened in Babri Masjid issue. Both the parties should have tolerance and have the mindset to purchase peace by either using the disputed property commonly or giving up one's alleged right to another, so that the issue will not resurface.



10. Though many clashes between the two religious groups had taken place in the past and so many peace committee meetings were conducted, still the issue has not been sorted out. The issue has to be decided in one way or another or else it will be jeopardizing the public peace and tranquility.

11. In view of the above, the Revenue Divisional Officer is directed to conduct an enquiry with regard to the claim of the parties, based on the documents to be produced and oral evidence to be adduced and decide the issue on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

12. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

pgp

To

1. The Collector,
Perambalur District, Perambalur.

2. The Revenue Divisional Officer,
Perambalur.

3. Tahsildar,
Veppanthattai Taluk,
Veppanthattai, Perambalur District.

4. The Deputy Superintendent of Police,
Mangalamedu, Veppanthattai Taluk,
Perambalur District,

5. The Sub Inspector of Police,
V. Kalathur, Perambalur District.

+1cc to Mr. S. Doraisamy, Advocate SR.No.26820

W.P.No.10748 of 2017

JV (CO)
GMY (06/08/2021)