



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.(MD) No.1048 of 2014
and
M.P.(MD) Nos.1 & 2 of 2014

1.Tiruthangal Nadar Kottapakkan Vagaiyara
Thayathigal Sangam
Door No.7, Nadar Pillayar Kovil Street
Thiruthangall Town
Sivakasi Taluk
Virudhunagar District

2.Chennaivazh Thiruthangal Nadar
Kottapakkan Vagaiyara Thayathigal Sangam
Old No.758, New No.130
T.H.Road, New Washermentpet
Chennai-600 081

... Appellants

-vs-

1.Vetrignaniyar Vagaiyarakkal Thayathigal
Sangam Sivakasi
No.2/576, Bharathi Nagar
Reserve Line
Sivakasi West-626 124
represented by its President

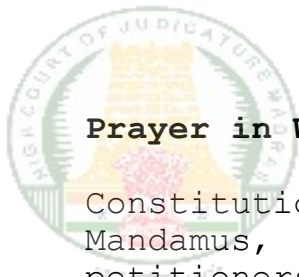
2.The District Collector
Virudhunagar District

3.The Revenue Divisional Officer
Sivakasi
Virudhunagar District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 25.08.2014, passed in W.P.(MD) No.13619 of 2014, on the file of this Court.

<https://hcservices.ecourts.gov.in/hcservices/>



Prayer in WP(MD) . 13619/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the 2nd Respondent to enquire into the petitioners representation dated 11.08.2014 and consequently restrain the respondents 3 and 4 from conducting the Balasthapatham and kumbabishekam dated on 27.08.2014 or in any other dated without the consent of petitioner as per the order passed by the Civil Court.

For Appellants : Mr.R.Subramanian
for Mr.R.Karunanidhi

For Respondents : Mr.A.V.Arun for R1
Mr.P.Subbaraj
Government Advocate for R2 & R3

J U D G M E N T

S.VAIDYANATHAN, J.
and
G.JAYACHANDRAN, J.

This writ appeal is directed against the order passed by the learned Single Judge in W.P.(MD) No.13619 of 2014, dated 25.08.2014.

2. The writ petition was filed seeking mandamus by Vetrignaniyar Vagaiyara against Tiruthangal Nadar Kottapakkam Vagaiyara in respect of conducting Balasthapatham and Kumbabishekam of Sri Therkku Malaiamman Deity in Sivakasi Town. The administration of the temple and its property are to be jointly maintained and enjoyed by the two groups. Whiles, for the purpose of proper administration, O.S.No.59 of 2012 was filed by Vetrignaniyar Vagaiyara and the same was decreed by the District Munsif Court, Virudhunagar, on 20.09.2012. Whiles, Thiruthangal Nadar Kottapakkam Vagaiyara unilaterally went ahead with the preparation of conducting Balasthapatham and Kumbabishekam of the deity on 27.08.2014 without the consent of the writ petitioner Vagaiyara. The representation given by the writ petitioner to the said effect was not considered and hence, a writ of mandamus was filed. In the said writ petition, this Court, after considering the rival contentions has made the following observations and passed the following orders:

"10.After hearing the learned counsel for the parties and perusing the material placed on record, it is prima facie clear that the respondents 3 and 4 are proceeded unilaterally. It may be true that the Kumbabhishekam festival



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or Balasthapatham or other functions related thereto or not been specifically mentioned in the scheme decree. It is not the case of either of the party that the scheme decree arose on account of a problem during the Kumbabhishekam festival or that matter any other festival. Rather, the decree was for a scheme of administration of the temple. In this connection, attention of this Court was invited to Clause X and XI of the decree dated 20.09.2012. From a perusal of the same, it is seen that no person has got exclusive right in the administration of the temple. Further, an appeal is pending before the Sub Court in A.S.No.54 of 2012. The respondents 3 and 4 in the counter affidavit would state that their predecessor in office did not suitably defend the suit. In any event, there is a decree operating, which binds the respondents 3 and 4. Therefore, the question of now unilaterally performing the poojas or function connected with Kumbabhishekam or stating that they have no idea to change the idol of the main deity and only usual procedures are being conducted as per agamasastras, would not be a valid defence for the respondents 3 and 4 in the light of the decree passed by the civil Court.

11. Thus, considering the above submission, this Court is of the view that the respondents 3 and 4 should be restrained from proceeding unilaterally with the matter. It is always open to the parties to approach the second respondent for appropriate orders and then, proceed to conduct the festival in accordance with law as per the decree of the civil Court in O.S.No.59 of 2012."

3. Aggrieved by that, Thiruthangal Nadar Kottapakkan Vagaiyara has preferred the present writ appeal.

4. The learned counsel appearing for the appellants would submit that the learned Single Judge has proceeded to pass the impugned order based on the Scheme Order passed in O.S.No.59 of 2012, which was challenged by the appellants herein, and the same was decreed. Hence, the observations made and the impugned order passed by the learned Single Judge warrants reconsideration and to be set aside.

5. Per contra, the learned counsel appearing for the first



respondent / writ petitioner would submit that the appellants herein consistently admitted the fact that both the property as well as the administration of the Temple were jointly conducted by both the groups and any attempt to proceed with the administration or conduct of festival unilaterally will go against the decree passed in the year 1920 and the subsequent decree restraining the appellants herein. The learned counsel would bring to the notice of this Court the injunction decree passed in O.S.No.86 of 2006 against the appellants herein granting permanent injunction for putting up construction without the knowledge of the first respondent herein and also it is seen from the facts of the case that though the right of joint administration of the temple is disputed / denied by the appellants herein, the Courts, at earlier stages and in different suits, have recognized the right of the first respondent / writ petitioner to have say in the administration of the Temple. In such circumstances, the unilateral attempt to conduct Kumbabishekam, excluding the first respondent / writ petitioner, is not conducive and it is against the findings of the Courts in the other disputes.

6. Though the worship and administration of the temple may be a religious affair, when it touches upon the public peace and tranquility, the State has every right to interfere and this Court having considered the nature of the dispute between the two groups in administering the Temple and conducting Kumbabishekam has rightly brought in the revenue administration to supervise the temple affairs. Except to point out the subsequent development regarding the suit in O.S.No.59 of 2012, this Court finds that there is no necessity to interfere with the observations made by the learned Single Judge and the same is confirmed. It is open to the parties to have a consensus in conducting Kumbabishekam or else shall wait for the disposal of the second appeal, which is pending. As far as the prayer sought for in the writ petition is concerned, this Court is of the view that the observations made by the learned Single Judge hold good and require no interference of this Court.

7. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

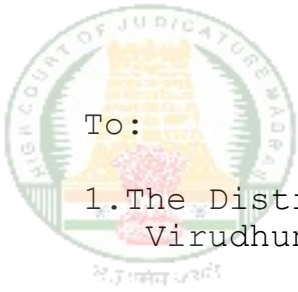
Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To:

1.The District Collector,
Virudhunagar District.

2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

+1 CC to M/s.A.V.ARUN, Advocate (SR-34163[F] dated 11/11/2021)

W.A.(MD) No.1048 of 2014
and
M.P.(MD) Nos.1 & 2 of 2014
10.11.2021

RD(02.12.2021) 5P 4C