



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2021

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20379 of 2021

S.Palavesamuthu

... Petitioner

Vs.

- 1.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 2.The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Vallioor,
Tirunelveli District.
- 3.The Inspector of Police,
Vallioor Police Station,
Vallioor,
Tirunelveli District.
- 4.Manickavasaga Vithaga Vinayaga Vadivoo,
Sri Muthukrishna Swamy Trust,
North Vallioor, Vallioor,
Tirunelveli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to permit the petitioner to conduct the lighting festival in the eye of Thirukkarthikai Deepam in Sootupothai Lingeswarar Temple, situated on the top of the Sootupothai mountain, near Ervadi, Vallioor, Tirunelveli District on 19.11.2021 and to give adequate police protection based on the petitioner's representation dated 03.11.2021.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For R1 to R3 : Mr.M.Sakthi Kumar
Government Advocate(Crl. Side)

For R4 : Mr.S.Ramesh



ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.) for the respondents 1 to 3 and the learned counsel for the fourth respondent.

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2. The case of the petitioner is that there is a practice of lighting lamp at the summit of Sootupothai Malai near Ervadi, Vallioor, Tirunelveli District on the occasion of Karthigai Deepam. This year the festival falls on 19.11.2021. His apprehension is that the police authorities may at the instance of the fourth respondent prevent them from doing so. Hence, he has filed this writ petition for being provided with adequate police protection for conducting the petition mentioned event.

3. The learned Government Advocate (Crl.) appearing for the official respondents submitted that the place has been classified as government poromboke. The District Collector had granted permission to the fourth respondent trust to develop the site. The District Collector had granted permission only to the fourth respondent to perform the event. He therefore submitted that there is no merit in the writ petition.

4. The learned counsel appearing for the fourth respondent while endorsing the stand of the learned Government Advocate added that the very filing of this writ petition is an abuse of legal process. He would point out that the petitioner's brother Thiru.S.Thanuskodi had filed writ petitions during the last two years and they suffered a dismissal. The fourth respondent had filed a typed set of papers enclosing the relevant materials. He pointed out that as early as on 29.05.2009, the fourth respondent has obtained permission from the District Collector for carrying out the afforestation activities around the site in question. The Trust has been maintaining the road around the Sootupothai Mountain. On 11.07.2008, permission was again granted by the District Collector for laying steps to reach the summit and for facilitating the lighting of the karthigai lamp. He submitted that since the petitioner's brother could not succeed in the years 2019 and 2020, the petitioner had come forward to file this writ petition. His foremost contention is that the practice followed in Thiruvannamalai is being replicated in Sootupothai Malai also. In the very nature of things, there can only be a single time lighting of the main lamp. He called for dismissal of the writ petition. He also would point out that the petitioner has deliberately moved this Court literally at the last moment.

5. I carefully considered the rival contentions and went through the materials on record. The petitioner's brother had filed W.P.(MD)No.23018 of 2018 seeking permission to conduct the event on 22.11.2018. After hearing both the parties, vide order dated



20.11.2018, the following directions were issued.

"(I) the persons belonging to Sri Muthukrishna Swamy Trust (the fourth respondent herein) shall light the Deepam at about 05.30 pm. On 22.11.2018 and they shall get away from the hillock.

(ii) the petitioner and his men belonging to the Muthuparadesi Sidhar Trust shall light the Deepam at about 06.30 pm. on 22.11.2018.

(iii) both parties shall give a written undertaking to the third respondent agreeing to comply with the conditions imposed by the third respondent for up keeping law and order

(iv) the third respondent may impose any condition required to maintain law and order."

6. I find considerable merit in the contention of the learned counsel appearing for the fourth respondent that such last minute approaching of the Court must be discouraged. He also would point out that while the fourth respondent has been carrying on their activities since 1969 after getting permission from the concerned authorities, the petitioner has not obtained any such authorisation from the authorities. This contention is controverted by the petitioner's counsel by pointing out that the matter involves the religious right of the petitioner and that no permission from any authority is required. Since customary practices are also involved, it is only just and proper that matter is resolved by the jurisdictional civil court. In future, no writ petition will be entertained in this regard. The petitioner will have to necessarily move the jurisdictional civil Court for relief.

7. I am of the view that the present Writ Petition can also be disposed of on the same lines as done in W.P.(MD)No.23018 of 2018:-

(i) the persons belonging to Sri Muthukrishna Swamy Trust (the fourth respondent herein) shall light the Deepam at about 05.30 pm on 19.11.2021 and they shall get away from the hillock.

(ii) the petitioner and his men belonging to the Muthuparadesi Sidhar Trust shall light the Deepam at about 06.30 pm. On 19.11.2021.

(iii) both parties shall give a written undertaking to the third respondent agreeing to comply with the conditions imposed by the third respondent for keeping law and order

(iv) the third respondent may impose any condition required to maintain law and order.



8. The Writ Petition is disposed of accordingly. No costs.
Sd/-

Assistant Registrar(Records)

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/ /2021

Sub Assistant Registrar(CS)

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintendent of Police,
O/o. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2.The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Vallioor,
Tirunelveli District.

3.The Inspector of Police,
Vallioor Police Station,
Vallioor,
Tirunelveli District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+3 CC to M/s.S. RAMESH, Advocate (SR-34699[F] dated 16/11/2021)

+1 CC to M/s.S. KARTHIKEYA VENKITACHALAPATH, Advocate (SR-34654[F] dated 16/11/2021)

W.P. (MD) No.20379 of 2021
16.11.2021

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TR/SKN(17.11.2021) 4P 9C