

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17328 of 2022
and
W.M.P.No.16662 of 2022

K.Raju

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
O/o. The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
Erode, Erode District.

2.The Fit Person / Thakkar,
A/m Rasaakalsamy temple,
Pethampalayam, Perundurai,
Erode District
Having Office at
The Executive Officer,
A/m Sellandiamman temple,
Perundurai, Erode District.

3.S.Balan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to forbear the first and second respondents herein to permit the third respondent, his men or agents to conduct the festival on 06.07.2022 by appointing new poojari based on petitioner's representation dated 04.07.2022.

For Petitioner : Mr.V.P.K.Gowtham

For R1 : Mr.S.Yashwanth
Additional Government Pleader

O R D E R

This is the third round of litigation in this Court. This Writ Petition has been filed for issuance of a Writ of Mandamus,

to forbear the first and second respondents herein to permit the third respondent, his men or agents to conduct the festival on 06.07.2022 by appointing new poojari based on petitioner's representation dated 04.07.2022.

2. Earlier, W.P.No.5440 of 2022 was filed by one S.Balan the third respondent herein for writ of mandamus, to direct the first and second respondent therein, i.e. The Superintendent of Police, Erode District and The Inspector of Police, Kanchikoil Police Station, Perunthurai Taluk, to accord police protection to the community men of Kanchi Kovil Oduvanga Nattu Kulalar attached with Moonu Chavadi @ AK Samuthram Village Group, Namakkal District while attending the Temple Festival of the community at "Arulmigu Rajakal Swamy" Temple, Pettampalayam, Perunthurai Taluk, Erode District, on 13.03.2022 and 14.03.2022. The petitioner herein was the third respondent in the said Writ Petition. The said Writ Petition was disposed by this Court on 10.03.2022.

3. The petitioner, in turn, filed another Writ Petition in W.P.No.11147 of 2022 for the following relief:-

"For issuance of a Writ of Mandamus, to direct the first to fifth respondents (officials of the police department) to provide adequate police protection to the petitioner for receiving the main Kulatheivam deity namely Kanji Oduvanka Nattu Konku Kulalalr Rajakkal Swamikal deity and pooja materials from the sixth to twelfth respondents (S.Balan the third respondent herein was one of the private respondents) and to perform all the poojas as per the Custom and Rights till completing the year Subkiruthu, till 14.04.2023 by considering the petitioner's representation dated 19.04.2022."

4. The above said Writ Petition was dismissed by an order dated 22.06.2022 with the following observations:-

3. Unless and until, right of the parties has been decided in a Civil Court, there cannot be a blanket direction to give police protection. Though the learned counsel for the respondent had submitted that they have obtained an Order in W.P.No.9243 of 2022, the above Order has been passed without hearing the other side. The police have to see that no untoward incident takes place. In the event such an act leads to law and order problem, the police is at liberty to close the temple till the adjudication of the right is decided in the suit. In such view of

the matter, no blanket direction for police protection can be given.

5. Apart from the above, another Writ Petition was filed by the said S.Balan, the third respondent herein which came to be disposed on 12.04.2022 with the following observations:-

2. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor would submit that earlier, the petitioner had filed an application in W.P.No.5440 of 2022 seeking for a similar relief. This Court by order dated 10.03.2022, finding that there was a dispute between the two groups in conducting the function, at that time, taking into consideration the fact there is a civil dispute between the petitioner and the rival groups, an undertaking was given by the second respondent/Inspector of Police that enquiry would be conducted after summoning all the parties and proper action will be taken by the respondents/Police. Based on the same, the second respondent had convened the peace committee meeting on 21.03.2022 and that certain Resolutions have been passed during the meeting.

3.The learned Additional Public Prosecutor would further submit that taking into consideration the ground-situation and the dispute between the parties, the second respondent Police will accord Police protection, if necessary.

4.Recording the above submissions made by the learned Additional Public Prosecutor, this Writ petition stands disposed of. No costs.

6. Apart from the above, the petitioner appears to have filed a suit in O.S.No.52 of 2009 which came to be dismissed for default on 08.09.2010. The petitioner has thereafter filed another suit in O.S.No.157 of 2012 before the District Munsif Court, Perundurai, wherein, the petitioner has prayed for a declaration that only the 8 persons are entitled to officiate the ceremony in the temple in turns. The said suit is still pending.

7. The main ground of the petitioner in this Writ Petition is that suppressing the above, the festival has been organized to be held on 05.07.2022 and 06.07.2022, i.e. today and tomorrow, for coronating the priest. It is submitted that the

petitioner came to know about the festival on 04.07.2022, i.e. yesterday and immediately sent a representation dated 04.07.2022 to the first and second respondents.

8. The learned counsel for the petitioner submits that the proposed ceremony for coronating the priest is contrary to the order dated 22.06.2022 passed by this Court in W.P.No.11147 of 2022. It is submitted that during the pendency of the civil suit in O.S.157 of 2012, the attempt of the third respondent and others to get on with the function of the temple is in gross violation of the order passed by this Court.

9. The learned Additional Government Pleader for the first respondent, on the other hand, submits that any intervention at this stage would create a law and order problem and it may not be conducive to order any intervention. It is submitted that the rights of the petitioner can be protected for the ensuing years' festival and therefore, this Writ Petition is liable to be dismissed with liberty to the petitioner to workout the remedy in accordance with law.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent.

11. The festival has already commenced on 05.07.2022 i.e. today and will culminate on 06.07.2022 i.e. tomorrow. On 06.07.2022 i.e. tomorrow, at about 04.30 a.m., the priest who would be coronated will be honouring. Considering the fact that this Writ Petition has been filed at the last moment, I am not inclined to interfere with the festival. Suffice to state that the petitioner has to workout his remedy before the District Munsif Court, Perundurai.

12. The District Munsif Court, Perundurai is requested to complete the trial and pass a Judgment and Decree in O.S.157 of 2012 which was filed by the petitioner on 18.06.2012 as expeditiously as possible preferably, within a period of nine months from the date of receipt of a copy of this order. The rights of the petitioner will be subject to the final outcome of the O.S.157 of 2012.

13. This Writ Petition is dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Erode, Erode District.

2.The District Munsif Court,
Perundurai.

+1cc to the Government Pleader, S.R.No.46324

W.P.No.17328 of 2022 and
W.M.P.No.16662 of 2022

KK(CO)
SB(29/07/2022)