



WEB COPY

W.P.No.29786 of 2022
& W.M.P.No.29178 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29786 of 2022
& W.M.P.No.29178 of 2022

B.Kakkamalla Gowder

...

Petitioner

versus

1.The District Collector,
The Nilgiris District,
Udhagamandalam,
The Nilgiris - 643 001.

2.The Revenue Divisional Officer,
Udhagamandalam,
The Nilgiris - 643 001.

3.The Inspector of Police,
Manjoor Police Station,
Kundha Bridge Post,
The Nilgiris - 643 219.

4.The Takkar,
Sri Kadaithaiaamman Temple,
Kilkundha, Kundha Bridge Post,
The Nilgiris - 643 219.

...

Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, to call for the records relating to the proceedings initiated by the second respondent herein Na.Ka.A3/2168/2022, dated 20.07.2022 and quash the same.

For Petitioner : Mr.T.R.Sathiyamohan

For Respondent Nos.1 to 3 : Mr.S.Santhosh
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed seeking for a certiorari to quash the proceedings initiated by the second respondent in Na.Ka.A3/2168/2022, dated 20.07.2022.

2. The petitioner is one of the villagers at Thuneri Village, Kundha Bridge Post, Nilgiris.. He belongs to Badaga community and the people of the said community live in 380 villages. Kundai Seemai is one of the said four regions consists of 22 villages where the temple of the petitioner's community deity is situated. The temple is at Kilkundha Village. Every year Devva Abba is celebrated in the said temple in the month of July. In the year 2014, due to the rival claim made by the Parpathi post



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(nominal head of Kundai Seemai), a dispute arose over performing the yearly festival of Devva Abba and thereafter, the second respondent, Revenue Divisional Officer, had initiated 145 Cr.P.C. proceedings in the year 2018 and passed an order on 25.07.2019. In the order dated 25.07.2019, it is stated that within one month the Parpathi should be selected and one retired District Judge by name R.Chandran was also appointed to conduct the general body meeting on 19.08.2019. 3 members committee has been appointed with the retired District Judge R.Chandran along with the petitioner and one Bheeman. Subsequently, the petitioner had taken legal action and sought a declaration in respect of the suit property in O.S.No.74 of 2019 and the same is pending and 107 Cr.P.C. proceedings have also been initiated without receiving any information as to the breach of peace.

3. On perusal of the impugned proceedings dated 20.07.2022 in Na.Ka.A3/2168/2022, it is seen that the proceedings have been initiated only because of the dispute arose between two parties, who have been denoted as 'A' and 'B'. In fact, both the groups wanted to conduct



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the festival individually and in this regard, several negotiations have been made in the presence of the Tahsildar, Revenue Divisional Officer, Deputy Superintendent of Police. No settlement arrived at between the parties, they continued to make their respective claims.

4. A case has been registered in Crime No.272 of 2018 under Section 145 Cr.P.C. proceedings and only thereafter, an interim order has been passed with certain conditions to celebrate the festival on 26.07.2019 and 27.07.2019. During the year 2020, the festival was not conducted due to covid-19 pandemic. Since the temple remains closed for nearly one year, the fourth respondent was appointed as 'Thakkar'. Again on 14.12.2020, a peace meeting was held by the authorities concerned and the representatives of both 'A' and 'B' groups have also participated. After assessing the ground realities and after enquiring the local public, the second respondent had issued the impugned proceedings.

5. It is to be noted that with regard to the appointment of Parpathi, there is a dispute pending in O.S.No.74 of 2019 on the file of the



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learned Sub Judge, Udhagamandalam. In such circumstances, the petitioner can not say that the proceedings under Section 145 Cr.P.C. have been initiated without any reason. In the impugned proceedings, the reasons for initiating 145 Cr.P.C. proceedings have been elaborated in detail.

6. The necessity for the second respondent to initiate the proceedings under 145 Cr.P.C. was because of the failure of the earlier negotiations held between the parties in the presence of various authorities and also the civil suit is pending in this regard. Even according to the petitioner, a legal action has been initiated to resolve the Parpathi issue. Unless the crucial problems are resolved between the parties, the temple festivals cannot be conducted peacefully. Since the responsible person has been appointed and the temple comes under the Hindu Religious & Charitable Endowments Act, it is the duty of the second respondent to ensure the peace among the public with regard to the temple activities.

7. Since the suit is pending in O.S.No.74 of 2019 and there is no clarity about the rightful person, who can be appointed as Parpathi, it



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is better to allow the impugned order to continue. Since the petitioner has filed this petition in his individual capacity, it cannot be considered that he is representing all those who are involved in the affairs of the temple. Since the petitioner has not established any grounds to show that the proceedings of the second respondent is arbitrary or uncalled for, I find no reason to interfere with the order of the second respondent. Since the second respondent had acted well within his authority, after making due enquiry and passed the order taking into account of the ground realities and with an intention to ensure peace and public safety, I find no reason to reverse the same.

8. With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.11.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri



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- 4.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

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