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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2022

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THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD)No.7617 of 2022

and

W.M.P. (MD)Nos.5760, 5762 & 6015 of 2022

P.K.N.Periyasamy

.. Petitioner

Versus

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 3.The Tahsildar,
Kariapatti,
Virudhunagar District.
- 4.The Deputy Superintendent of Police,
Aruppukottai Circle,
Virudhunagar District.
- 5.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
- 6.The Sub-Inspector of Police,
Aviyur Police Station,
Virudhunagar District.
- 7.K.Balasubramanian
- 8.G.Periyasamy
- 9.R.Periyasamy
- 10.Muniyandi, S/o.Kanthavel

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the second respondent in Na.Ka.No.A2/2654/2022, dated 12.04.2022, quash the same as illegal and consequently, direct the second respondent to conduct fresh peace committee meeting under due process of law.



For Petitioner : Mr.H.Mohammed Imran
for Mr.M.Jegadeesh Pandian

For R1 to R6 : Mr.P.Subbaraj
Special Government Pleader

For R8 & R9 : Mrs.A.S.Rajeswari

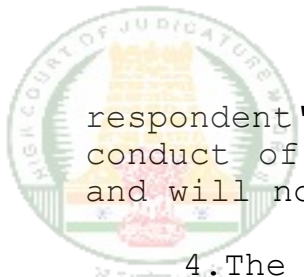
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ORDER

The petitioner has challenged the impugned decision of the second respondent - Revenue Divisional Officer, Aruppukottai, dated 12.04.2022, recording the decision arrived at in a peace committee meeting held purportedly in pursuance of the order dated 01.03.2022, made in W.P.(MD)No.22651 of 2021. By an interim order, as an interim measure, the ninth respondent has been allowed to function as Poojari in Sri Andisamy Temple at Keela Uppilikundu Village, Kariyapatti Taluk, Virdhunagar District.

2.The petitioner claims that he belongs to Agamudaiyar Community, which constructed the above Temple and the said Temple became a public temple over a period of time. It is submitted that there was a dispute between the group represented by the petitioner [Chinna Ambalam] and the respondents 8 and 9 [Periya Ambalam]. It is submitted that earlier, there was a dispute between the members of Pallars Community and Agamudaiyar Community, which was resolved and thereafter, a temple festival was conducted on a regular basis. However, in 2019, there is a dispute between the petitioner and the respondents 8 and 9 belonging to two groups namely, Chinna Ambalam and Periya Ambalam. Earlier, the petitioner had filed W.P.(MD) No.16509 of 2019, challenging the order of the second respondent herein, dated 12.07.2019, and quash the same as illegal and unwarranted and consequently, direct the second respondent to permit the petitioner's Chinna Ambalam group to conduct Sri Andisamy Temple festival/Kalari Vizha from 05.09.2019 to 07.09.2019. An interim order came to be passed by this Court on 01.08.2019, to enable the Poojari to be identified to perform Nithya Pooja, the Revenue Department was directed to direct the Village Administrative Officer concerned to accompany with the Poojari on the first day to perform the Poojas in the Temple and that he was also directed to ensure that there is no deterioration of law and order in that locality and if there is any such likelihood of deterioration of law and order in that locality, he must immediately take steps to bring it to the notice of the higher officials of the Revenue Department as well as the Police Officers concerned.

3.Pursuant to the above, a peace committee meeting was also held. The said Writ Petition was disposed of by observing that the petitioner's rights and contentions are left open and the eighth



respondent's rights and contentions also remain left open and the conduct of the said festival will not confer any rights in future and will not vest in the eighth respondent any rights in future.

4.The learned counsel for the petitioner submits that already a suit is pending in O.S.No.171 of 2019 before the Subordinate Court, Aruppukottai. It is submitted that during Maha Sivarathiri, the petitioner has approached this Court in W.P.(MD)No.22651 of 2021 and that the Court merely directed the Revenue Divisional Officer to open the concerned Temple from 01.03.2022 and 02.03.2022 by facilitating to worship of the deity by the petitioner, the respondents 7 and 8 herein.

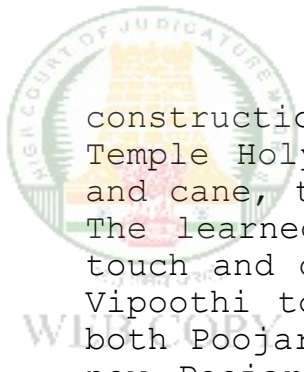
5.The above said order also directed the second respondent to conduct an enquiry for a permanent solution on the representation submitted by the petitioner, after issuing notice to the petitioner and the respondents 7 and 8 and other counterparts, if any, after giving an opportunity in accordance with law.

6.The learned counsel for the petitioner therefore submits that the order conferring rights on the eighth respondent, is liable to be interfered with, as the Revenue Officials have no power to determine the *inter se* rights of the parties, which is the subject matter of O.S.No.171 of 2019

7.Opposing the prayer, the learned Special Government Pleader for the respondents 1 to 6 submits that it is open for the parties to work out the remedy under Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as the 'H.R. & C.E. Act'] and it is further submitted that if the petitioner is aggrieved by the decision of the second respondent, dated 12.04.2022, the petitioner should file an appeal before District Revenue Officer.

8.Opposing the prayer, the learned counsel for the private respondents namely, respondents 8 and 9 submits that the Temple was constructed by the members of the Agamudaiyar and Pallar Communities and a rivalry arose in the year 1976 between both the communities and thereafter, an agreement was entered on 13.07.1976 and pursuant to the above said, the members of Agamudaiyar Community Pangaligal constructed their own Sri Andisamy Temple in S.Nos.12/2, 12/22 and 12/6 at Keelauppiligundu Village. It is submitted that the members of the Agamudaiyars and Pallars Community are worshipping the Temple with peace and tranquillity and there is no acrimony between the members. It is submitted that the petitioner has failed to inform the Court about the formation of own Temple by Agamudaiyar and Pallar Communities during 1976. It is submitted that the respective communities are having their own temples and worshipping therein.

9.The learned counsel for the respondents 8 and 9 further
<https://hcservices.courts.gov.in/hcservices/> per Resolution, dated 13.07.1976, at the time of



construction of the temple, on the first day of Kalari from the Temple Holy Box House, the Poojari has to carry the holy ash bowl and cane, the Maniyari shall carry the God's holy box to the Temple. The learned counsel further submits that Maniyari has no right to touch and carry sacred ash bowl. At no point of time, Maniyari gave Vipoothi to the devotees. The allegation that during the festival both Poojari and Maniyari used to give Vipoothi to the devotees, but now Poojari objected for offering of Vipoothi by Maniyari to the devotees is false and it is hereby denied that Maniyari has no right even to touch the Vipoothi bowl and to take sacred ash.

10.I have considered the arguments advanced by the learned counsel for the respective parties.

11.The petitioner appears to have given a representation on 03.12.2021 to the Revenue Divisional Officer namely, the second respondent as evident from the reading of the order dated 01.03.2022. It is pursuant to the above said representation, the impugned decision has been taken in the peace committee meeting. Though the respondents 8 and 9 have already filed a suit in O.S.No.171 of 2019, wherein the petitioner is the first defendant, the endorsement made in the impugned order also indicates that the petitioner has not acceded to the decision arrived at in the peace committee meeting. The Revenue Divisional Officer - second respondent has no power to recognize any person as a Poojari. These are the matters, which ought to have been decided under the provisions of the H.R. & C.E. Act by the authorities prescribed under the Act.

12.Considering the fact that there is a suit pending in O.S.No.171 of 2019, it was not open for the second respondent to arrive at a decision and force the decision on the petitioner. If at all, the petitioner wants the rights to be recognized, it is open for the petitioner to file an appropriate application before the Joint Commissioner, Virudhunagar, under Section 63(e) of the H.R. & C.E. Act. Therefore, I am inclined to quash the impugned order while allowing the parties to work out the remedy in O.S.No.171 of 2019 as well as the proceedings before the Joint Commissioner, Virudhunagar, under Section 63(e) of the H.R. & C.E. Act.

13.The petitioner is given time to initiate such proceedings within a period of 30 days from the date of receipt of a copy of this order. If the petitioner files such application, the Joint Commissioner, Virudhunagar, shall decide the application as expeditiously as possible, preferably within a period of three months from the date of receipt a copy of this order, so that, by the next date of the temple festival, there is some clarity regarding the rights of the parties. In case, the petitioner fails to file the said application within such time, this order shall stand vacated automatically.



14.This Writ Petition stands allowed in terms of the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

- 1.The District Collector,
Virudhunagar District,
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- 2.The Revenue Divisional Officer,
Aruppukottai,
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- 3.The Tahsildar,
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- 5.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
- 6.The Sub-Inspector of Police,
Aviyur Police Station,
Virudhunagar District.

+1 CC to M/s.M. JEGADEESH PANDIAN, Advocate (SR-21733[F] dated 27/04/2022)

+1 CC to M/s.A.S. RAJESWARI, Advocate (SR-21091[F] dated 26/04/2022)

+1 CC to M/s.SPL.GP. (SR-21253[F] dated 26/04/2022)

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