



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.01.2021

PRONOUNCED ON : 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD)Nos.15784 and 19922 of 2021

and

W.M.P. (MD)Nos.12721, 12722 and 16619 of 2021

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W.P. (MD)No.15784 of 2021:-

K.Bose

... Petitioner

vs.

1.The Tahsildar,
Karaikudi, Sivagangai District.

2.Karuppiah

3.S.P.Meyappan

4.A.Shanmugam

... Respondents

(R4 was impleaded vide order of this Court, dated 22.11.2021 in W.M.P. (MD)No.15642 of 2021)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to declare the decision taken in the Peace Committee Meeting dated 21.08.2021 held by the first respondent herein with regard to Arulmighu Thittumalai Kalliamman Temple situated in S.No.186/1 at Patharakudi Village, Kazhanivasal Gropu, Karaikudi, Sivagangai District as null and void.

For Petitioner :Mr.VR.Shanmuganathan

For R1 :Mr.J.John Rajadurai
Government Advocate

R2 :Died

R3 and R4 :Mr.Mohamed Imran
for M/s.Ajmal Associates

W.P. (MD)No.19922 of 2021:-

K.Yoganathan

... Petitioner

vs.

1.The District Collector,
Sivagangai District,
Sivagangai - 630 562.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai-630 562.



3.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Sivagangai - 630 562.

4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Paramakudi - 623 707,
Ramanathapuram District.

5.The Tahsildar,
Karaikudi Taluk,
Karaikudi-630 002, Sivagangai District.

6.The Inspector,
Hindu Religious and Charitable
Endowment Department,
Karaikudi Taluk, Karaikudi -630 002,
Sivagangia District.

... Respondents

(R4 was impleaded vide order of this Court, dated 22.11.2021 in W.M.P. (MD)No.15642 of 2021)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to direct the respondents to permit the petitioner to continue as the priest and perform daily poojas in the Thittumalai Kaliamman Temple situated in SurveyNo.186/1, Patharakudi Village in Managiri Sukkanedhal Revenue Village, Karaikudi Taluk, Sivagangai District and for that limited purpose open the Temple.

For Petitioner :Mr.P.Krishnasamy

For Respondents :Mr.N.Satheesh Kumar

Additional Government Pleader

C O M M O N O R D E R

W.P. (MD)No.15784 of 2021 had been filed by K.Bose, claiming to be the Secretary of Kazhanivasal Adi Dravida Community at Karaikudi in Sivagangai District, seeking a Declaration that a decision taken to lock and seal the Thittumalai Kaliamman Temple and prevent even daily Poojas from being conducted in the Peace Committee Meeting on 21.08.2021 by the 1st respondent, Tashildar, Karaikudi, as null and void.

2.W.P. (MD)No.19922 of 2021 had been filed by K.Yoganathan, claiming to be the Poojari of Thittumalai Kaliamman Temple, seeking a Mandamus, directing the respondents to permit him to continue as Poojari and perform daily Poojas to the Goddess.

petitioner
right to

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villagers are entitled to worship in the temple. It is claimed that the family members are also permitted to do Pooja. The main festival session is only in the Tamil month of Aadi.

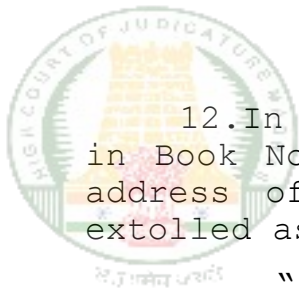
8.A suit in O.S.No.193 of 2006 had been filed by three plaintiffs as representatives of Kazhanivasal Temple Section Nattars among Namem Nattars who worship the deity Shri Thittumalai Kaliyamman against the father of the Writ Petitioner in W.P.(MD)No.19922 of 2021, V.R.Kasi, and five other named defendants and also against the Assistant Engineer, Tamil Nadu Electricity Board, Karaikudi seeking a declaration that the administration and maintenance of the said temple belongs to the plaintiffs and for a mandatory injunction directing the seventh respondent/Assistant Engineer, Tamil Nadu Electricity Board, Karaikudi, not to give electricity service connection in the name of the first to sixth defendants. Among the three plaintiffs, the second plaintiff, P.Karuppiah and the third plaintiff, S.P.Meyappan are also the second and third respondents in W.P.(MD)No.15784 of 2021. The suit was dismissed on the issue jurisdiction.

9.The respondents contended that the suit which was dismissed would not come to the aide of the Writ Petitioners, since the issues were not examined on merits. It had also been stated that the Society Arakattalai formed by the Writ Petitioners have nothing to do with the temple. It was also stated that the claim under Seppu pattayam is incorrect. It was also stated that the temple is situated in Tharису land. It was stated that the Writ Petitioners cannot question the decision to lock and seal the temple. That order was justified and the jurisdiction of the Tahsildar to pass such order was recognised. It was stated that the Writ Petitions should be dismissed.

10.Heard arguments advanced by Mr.VR.Shanmuganathan, learned Counsel for the petitioner in W.P.(MD)No.15784 of 2021, Mr.P.Krishnasamy, learned Counsel for the petitioner in W.P.(MD) no.19922 of 2021, Mr.J.John Rajadurai, learned Government Advocate for the first respondent in W.P.(MD)No.15784 of 2021, Mr.N.Satheesh Kumar, learned Additional Government Pleader for all the respondents in W.P.(MD)No.19922 of 2022 and Mr.Mohamed Imran, learned Counsel for third and fourth respondents in W.P.(MD)No.15784 of 2021. It is to be noted that the second respondent in W.P.(MD)No.15784 of 2021 had been reported dead and no steps have been taken.

11.Article 17 of the Constitution reads as follows:

"17. Abolition of untouchability.—"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law."



12. In the *Official Report of the Constituent Assembly Debates*, in Book No.V, published by the Lok Sabha Secretariat, the opening address of Dr. Ambedkar had been given and it seen that he had extolled as follows:

"On 26th January, 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognising the principle of one man one vote and one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long should we continue to live this life of contradiction? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow the structure of political democracy which this Assembly has so laboriously built up."

13. In 1976 Article 51-A was added in the Constitution introducing the concept of fundamental duties. Article 51-A(e) reads as follows:

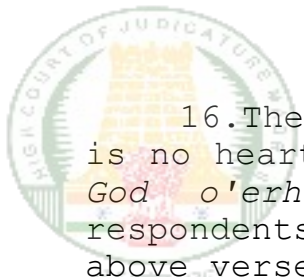
"(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities;"

14. The Supreme Court in ***Arumugam Servai v. State of Tamil Nadu***, reported in **2011 (6) SCC 405**, had, taken note of an obnoxious practice of two tumbler system, and observed as follows:

"In our opinion, this is highly objectionable, and is an offence under the SC/ST Act, and hence, those practising it must be Criminally proceeded against and given harsh punishment if found guilty. All administrative and Police officers will be accountable and departmentally proceeded against if, despite having knowledge of any such practice in the area under their jurisdiction they do not launch Criminal proceedings against the culprits."

15. I am also reminded of the words of Henry Wadsworth Longfellow in his poem, *A Psalm of Life*:

"Act-act in the living Present!
Heart within, and God o'erhead!"



16.The words can also be interpreted to indicate that if there is no heart within oneself, there is no point in thinking about the God o'erhead. The petitioners and more particularly, the respondents may keep in mind this particular interpretation of the above verse.

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17.I am not able to understand the logic of the respondents in affirming an action of the Tahsildar to lock and seal the temple. If the respondents actually have their heart and soul in the Deity, they would have risen to support the Writ Petitioners and seek to open the temple and permit worship of the Deity everyday and for the Poojas to be conducted to the Deity everyday. On the other hand, they have focused their interest not on the Deity, but on their individual self and this is condemnable and cannot be accepted by this Court.

18.There is a slight resemblance in the attitude of the said respondents to the attitude of the lady, who permitted cutting a young infant into two parts, which King Solomon suggested, when two ladies laid a claim on the same infant. The actual mother wept and said such an act should not be done. The false mother stated that the infant can be cut into two parts. King Solomon was able to determine who the actual mother was, by their reaction to his suggestion.

19.In the instant case, the Writ Petitioners, particular, the Writ Petitioner in W.P.(MD)No.19922 of 2021 had lamented that the Goddess had been kept under lock and seal and that this was against known principles of worship and the temple must be opened and daily Poojas must be done to Her. The respondents on the other hand have affirmed in their counter affidavit the locking and sealing of the temple. This only shows that they are not interested in the actual worship or conduct of the Poojas of the temple, but are only attached to material aspects of the temple.

20.It had been observed by the Hon'ble Supreme Court that if objections are raised against the rights of Adi Dravidrars, the officials in charge of the administration have a right to initiate criminal proceedings. Locking of a temple is not the solution. The Tahsildar might also have passed an order to demolish the temple. I fear the worst and I fervently hope that such step would not be taken by the Tahsildar. A duty is cast on the Tahsildar to prevail upon the two communities to worship the temple and permit the Poojas to be conducted. If one party does not tolerate the other party, then the law must take its own course and the Tahsildar should have given a police complaint against the private respondents in W.P.(MD) No.15784 of 2021 for deliberately obstructing the right to conduct Pooja by the petitioners, particularly, the petitioner in W.P.(MD) No.19922 of 2021. There is always a difference between the two communities, particularly, when as observed caste system prevails.



But rule of law must prevail and equality must be maintained by the officials in administration.

21.I am informed about the Peace Committee Meeting, which had taken place in the year 2020 with respect to the arrangement for the Aadi festival. But the temple cannot be kept under lock and seal in the month of Thai and await a decision to be taken in the month of Aadi. The respondents must act now and immediately.

22.The contention of the respondents in the counter affidavit are rejected by me. I am more shocked over the tenor of the plaintiffs in O.S.No.193 of 2006 filed by the second and third respondents in W.P.(MD)No.15784 of 2021. They did not want electricity service connection to be granted to the temple. They could have moulded the relief by stating that the electricity service connection should be given, but not in the name of named individuals.

23.The administration of the temple is in the hands of the HR & CE Department, but so long as, the right to do pooja is concerned, it vests with the petitioner in W.P.(MD)No.19922 of 2021. Let that right continue and it should not be interfered with owing to prejudices raised by the respondents in W.P.(MD)No.15784 of 2021. The right to worship is an inherent right of everybody, whose feet are in this land. That cannot be prevented. Therefore, all the villagers of the named three villages can always worship in the temple. But let the Deity have the pleasure of the poojas being conducted by the descendents of the person, to whom She came in a dream and who recovered Her from the bushes and had given Her dignity and a place of honour in the temple.

24.I would therefore pass the following directions:

(1)W.P.(MD)No.15784 of 2021 is allowed. The temple is directed to be opened by the first respondent/Tahsildar and a direction is issued to the Superintendent of Police, Sivagangai District to simultaneously deploy sufficient police force to ensure that peace reigns in that area during the period of worship. The daily Poojas must be conducted. Everybody must be permitted to worship the Deity. The decision to lock and seal the temple is set aside. The temple is directed to be opened forthwith.

(2)W.P.(MD)No.19922 of 2021 is allowed and the Writ Petitioner is permitted to conduct the daily Poojas.

(3)The arrangement which was taken in the Peace Committee Meeting in the year 2020 also may again be followed for the month of Aadi every successive year.

(4)No order as to costs.



(5) Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

cmr

To

1. The District Collector,
Sivagangai District,
Sivagangai - 630 562.
2. The District Revenue Officer,
Sivagangai District, Sivagangai-630 562.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Sivagangai - 630 562.
4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
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Ramanathapuram District.
5. The Tahsildar,
Karaikudi Taluk,
Karaikudi-630 002, Sivagangai District.
6. The Inspector,
Hindu Religious and Charitable
Endowment Department,
Karaikudi Taluk, Karaikudi -630 002,
Sivagangia District.
7. The Superintendent of Police,
Sivagangai District.

+1 CC to M/s.MOHAMED IMRAN (AJMAL ASSOCIATES), Advocate (SR-2298[F]
dated 25/01/2022)

+1cc to M/S.SPL GP SR.No.2399

Order made in

W.P. (MD) Nos.15784 and 19922 of 2021

21.01.2022

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