



W.P(MD).No.16672 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.16672 of 2022
and
W.M.P.(MD).No.12097 of 2022

1.S.Kaliyamoorthy

2.K.Nandakumar

... Petitioners

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
(Admn.) Department,
Mayiladuthurai,
Kumbakonam,
Thanjavur District.

3.The Deputy Superintendent of Police,
Thanjavur District,
Thanjavur.

4.The Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam,
Thanjavur District.

5.S.Sankar

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, permitting the petitioners to conduct the Aadi Festival and lifting of Poo Karagam in Arulmigu Aadhi Nandhavanathu Mariamman Temple, Pettai North East Street, Kumbakonam, Thanjavur District with police protection of the third and fourth respondents.

For Petitioners : Mr.J.Anandhavalli

For R-1 to R-4 : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner herein filed this Writ Petition seeking permission for conducting Aadi Festival and lifting of Poo Karagam in Arulmigu Aadhi Nandhavanathu Mariamman Temple, Pettai North East Street, Kumbakonam, Thanjavur District with Police protection.

2. The apprehension of the petitioner is that the fifth respondent being an advocate, who is not interested in conducting Temple festival is unnecessarily involving in the activities of the Temple. On his instigation, the fourth respondent is also acting against the petitioners. Further the fifth respondent herein is the third respondent in O.A.No.7 of 2017. The petitioners have filed 63 B petition seeking declaration of the petitioners as



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founder and hereditary trustees of the Temple. The fifth respondent herein, who is the third respondent in O.A.No.7 of 2017 is not co-operating in disposal of O.A.No.7 of 2017. It is further submitted that the fifth respondent either himself or by instigating others, creates obstruction in peaceful conduct of the Aadi festival and other festivals of the Temple. The petitioner earlier approached this Court in W.P.(MD).No.12974 of 2013 seeking for a direction to provide Police protection for celebrating the Karagam festival in the year 2013. This Court by order dated 02.08.2013 observed as follows:

“9. It is an admitted fact that the petitioner has been lifting the Karagam for the past 15 years and also equally, the petitioner has become old, running 78 years. The festival has to be conducted peacefully with the co-operation of each other. When one party is not co-operating, there will be an unpleasant happenings in the festival which should be avoided and therefore, this Court deems it fit to direct the second respondent to convene the Peace Committee Meeting on 03.08.2013 at 11.00 a.m by which time, both parties are directed to be present before the second respondent. The second respondent is directed to take a decision with regard to by whom the Karagam has to be lifted. The decision taken in the Peace Committee Meeting will be binding on both parties”.



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3. Thereafter, for the non cooperation of the fifth respondent herein, the petitioner had filed W.P.(MD).No.1292 of 2015 before this Court, seeking for Police protection to conduct Aadi festival for the year 2015. This Court finding the Executive Magistrate at that point of time not following the procedures contemplated under Section 145 and using the same for objecting to conduct the Aadi festival, had directed the Joint Commissioner to complete the proceedings in O.A.No.7 of 2017, since this would give quiteus to both the parties. The learned counsel for the petitioner further submitted that as regards the first petitioner, there is no objections but there seems to be some objections with regard to the second petitioner. In counter affidavit of O.A.No.7 of 2017, the objection raised by by one of the respondent is that the Nandakumar/second petitioner herein, who is the son of the first petitioner's third wife is illegitimate and he cannot claim any hereditary rights.

4. The counsel for the petitioner fairly submitted that further the petitioners and the villagers had fixed the Temple festival by printing the invitation in setting out the earlier rights on which the festival would be conducted. As per the invitation, the festival should commence from 01.08.2022 at about 9.00 a.m and it will go on up to 11.09.2022. The group lead by the fifth respondent had also printed similar invitation to conduct the festival on the same day, as proposed by the petitioner and the villagers.



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Hence, apprehending commotion and disturbances, the representations dated 14.07.2022 and 20.07.2022 have been given to the authorities by the petitioners. Since no steps have been taken for providing protection, the petitioner apprehending disturbances for conducting the festival, has filed this Writ Petition.

5. The counsel for the respondents 1 to 4 submitted that the first petitioner on his own conducting the festival each year. The villagers apart from the fifth respondent had lodged a complaint, as there has been a tensed moment in conducting the festival. The villagers raised their objections for the second petitioner in conducting the festival. As regards the second petitioner, there is much resistance, since the second petitioner happens to be a son of first petitioner's third wife and thus, the villagers raised their objections to the second petitioner in conducting festival. Further apprehending the disturbance, the third respondent had forwarded the letter to the Revenue Divisional Officer, Thanjavore, about the impending breakage of public peace. The Revenue Divisional Officer is to conduct the peace committee meeting on 29.07.2022 today at about 10.00 a.m. In the peace committee meeting, the matter can be resolved.



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6. I have considered the matter in the light of the submissions made by learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4.

7. On perusal of the records it is seen that the primary objections appears to be with regard to the second petitioner. There is no issue for the first petitioner in conducting the festival. As regards the first petitioner in conducting the festival is not an issue. In view of the same, the first petitioner alone can conduct the pooja as per the invitation produced. If at all any rival groups claims rights, it is for them to approach the concerned authority namely, the Joint Commissioner, and participate in O.A.No.7 of 2017 and raise their objections. This Court in W.P.(MD).No.12974 of 2013 had recorded that for the past 15 years, the first petitioner is conducting the festival peacefully. The primary ground on which the festivals are conducted is by custom and usage, as such the first petitioner who conducts the festival for a long period is not in dispute.

8. In view of the same, unless there is any orders from the competent Court, there cannot any obstructions for the first petitioner to conduct the Aadi festival which consists of Poo Karagam, Paal Kudam, Kathavarayan,



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Madurai Veeran, Periyavel, Pathinettampadi Karuppasamy, Sambarani Satti, Soolam and Thurava. This Court directs the first and second respondents to ensure conduct of festival, in the temple namely, Arulmigu Aadhi Nandhavanathu Mariamman Temple situated at Pettai North East Street, Kumbakonam, Thanjavur District, the third and fourth respondents to post sufficient force to ensure no disturbances in conducting Aadi festival and lifting of Poo Karagam, further the third and fourth respondents to ensure peace, law and order.

9. In view of the above, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

29.07.2022

Index : Yes / No
Internet : Yes/ No
Nsr

Note: Issue Order Copy on 29.07.2022.



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M.NIRMAL KUMAR, J.

Nsr

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