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W.P.No.22211 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.22211 of 2023
and
W.M.P.No.21599 of 2023

T.Tirunavukarasu

...Petitioner

Vs.

- 1.The Assistant Commissioner/Executive Officer,
Arulmigu Vanabadrakaliamman Temple,
Thekkampatti -641 305, Coimbatore.
- 2.The Assistant Commissioner,
H.R.&C.E. Department,
Commercials Tax Building,
Dr.Balasundaram Road, Coimbatore – 641 018.
- 3.The Joint Commissioner,
Coimbatore, H.R.&C.E. Department,
Commercials Tax Office Complex,
Dr.Balasundaram Road, Coimbatore – 641 018.
- 4.The Commissioner,
The H.R.&C.E. Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.



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5.The Principal Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai – 600 009.

6.The Hereditary Trustee,
Arulmigu Vanabadrakaliamman Temple,
Thekkampatti -641 305, Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that the 6th respondent is not entitled to perform the 'Maha Abishekam' as 'Kattalaitharar' and 'Ubayadharar' in 'Aadikundam' Festivals of the Arulmigu Vanabadrakaliamman Thirukoil, Thekkampatti.

For Petitioner : Mr.PA.Saigovindaraja

For Respondents : Mr.K.Karthikeyan
1 to 5 Government Advocate

ORDER

The petitioner seeks issuance of a writ of declaration declaring that the 6th respondent is not entitled to perform the Maha Abishekam as Kattalaitharar and Ubayadharar in Aadikundam Festival of Arulmigu Vanabadrakaliamman Thirukoil, Thekkampatti, Coimbatore District.



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2. According to the petitioner, he is a retired temple staff of HR & CE Department and he also worked in Arulmigu Vanabadrakaliamman Thirukoil. It is the case of the petitioner that temple workers and retired staff have been performing Maha Abishekam as Kattalaitharar and Ubayadharar in Aadikundam Festival every year. During 29th Aadikundam Festival last year, the 6th respondent, hereditary trustee of the temple arbitrarily included her name and the names of her family members as Kattalaitharar to perform Maha Abishekam violating the customary right of the temple staff and workers.

3. It is also stated by the petitioner that during this year, the 30th Aadikundam Festival is slated to be held on 28.07.2023. The 6th respondent again included her name and her family member names as Ubayadharar for performing Maha Abishekam. It is the specific case of the petitioner that the said Abishekam has been performed by temple staff for the past 28 years and therefore they acquired a customary right over performance of said Abishekam consequently the petitioner seeks issuance of a writ of declaration.



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4. Mr.K.Karthikeyan, learned Government Advocate takes notice for the respondents 1 to 5.

5. The prayer sought for the petitioner cannot be entertained by this Court as it involves disputed question of fact. The petitioner seeks a negative declaration that the 6th respondent is not entitled to perform Maha Abishekam as Kattalaitharar or Ubayadharar in Aadikundam Festival. The main case of the petitioner is that the said Abishekam has been performed by temple staff for the past 28 years. Whether a person is entitled to any customary or usage rights in a religious institutions or not is a question which involves disputed question of fact and the same cannot be conveniently gone into by this Court while exercising power under Article 226 of Constitution of India.

6. Therefore, it is for the petitioner to get a declaration with regard to the customary right of temple staff by filing appropriate application before the competent authority. As on today, the alleged customary right of temple staff is



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not declared by any competent authority or Court. Further, the persons, who are allegedly entitled to such customary right is also not before this Court.

7. In these circumstances, the prayer sought for by the petitioner cannot be entertained and consequently, the writ petition is dismissed. However, the persons claiming customary right is entitled to get his right declared in the manner known to law before the appropriate forum. Consequently, connected miscellaneous petition is closed.

27.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

To

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2.The Assistant Commissioner,
H.R.&C.E. Department,

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Commercials Tax Building,
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- 3.The Joint Commissioner,
Coimbatore, H.R.&C.E. Department,
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