



W.P(MD)No.1688 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1688 of 2023
and WMP(MD)No.8131 of 2023

Chinnasamy

... Petitioner

Vs

1. The District Collector,
Madurai District, Madurai.
2. The Revenue Divisional Officer,
Melur, Madurai District.
3. The Tahsildar,
Melur Taluk, Madurai District.
4. The Deputy Superintendent Of Police,
Melur Sub Division, Madurai District.
5. The Inspector of Police,
Melavalavu Police Station,
Madurai District.
6. Muthuveeranan
7. Karuppiah
(6th and 7th respondents impleaded as per
order of this Court, dated 18.04.2023)

... 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, to direct the second respondent to form a village committee consisting the representation of all community to perform proposed the Kumbabishekam for Arulmighu Periya Manthai Savadi Karuppasamy temple situated in Survey No. 741/29 at Kidaripatti Village, Melur Taluk, Madurai District by conducting the peace committee in accordance with section 145 of Criminal Procedure Code, based on representation dated 19.12.2022.

For Petitioner	:Mr. M.Ramu
For R1 to R5	:Mr.N.Muthu Vijayan Special Government Pleader
For R6, R7	:Mr.Niranjan S.Kumar

ORDER

The writ petition has been filed in the nature of Mandamus, to direct the second respondent to form a Village Committee consisting of the representation from all communities to perform the Kumbabishekam for Arulmighu Periya Manthai Savadi Karuppasamy Temple at Survey No. 741/29 at Kidaripatti Village, Melur Taluk, Madurai District. The petitioner also seeks that a peace committee may be formed and in this regard had given a representation on 19.12.2022.



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2.The writ petition came up for hearing in the first instance before my learned predecessor on 30.01.2023 and then came up before me for further hearing on 10.03.2023. This Court had directed the learned Additional Government Pleader, who appeared for the fourth and fifth respondents to give the names of one elder from each community/Karai of the concerned village. Thereafter, further information was given and the learned counsel for the petitioner had filed a memo also giving a list of names with respect to Vettai Moopu (Mutharayer community) and details of number of the members in Kallar, Nadar, Adi Dravidar, Devendrakula Velaler and Mutharayer Community.

3.Simultaneously, a counter affidavit had been filed by the fifth respondent, namely the jurisdictional Inspector of Police, Melur Circle, Madurai District wherein, he had stated that the temple is a public temple and the community people belonging to Moopanar, Devendrakula Velaler, Kallar, Yadhavar and also other community people were celebrating all the festivals of the temple/Periya Manthai Savadu Karuppasamy Temple without any dispute. It was then stated that a civil suit was instituted in O.S.No.165 of 2014, before the District Munsif Court at Melur, regarding the right of the



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temple among the village community people and later the suit was withdrawn.

Thereafter, another suit was filed in O.S.No.183 of 2021 again before the District Munsif Court, Melur by one Lakshmanan, who claimed that he was prevented by the members belonging to Ettukarai Kallar Podhu Sabai. It is stated that the suit is still pending. It is also stated that the writ petition had been filed with false averments that there is no representation of the temple Poojaris, belonging to Adi Dravidar community.

4.In the counter affidavit, the Inspector of police has stated about the representation of other communities like Kallar, Mutharaiyar, Muslim, Aasari, Konnar and Velar and also about the Adi Dravidar community people. It is admitted that the Poojaris of the aforesaid temple belongs to Adi Dravidar community. There are also four Vagaiyaras, namely, KaruvaiPiramban Vagaiyara, KonaPiramban Vagaiyara, Murugan Vagaiyara and Mayagolan Vagaiyara.

5.It is further stated in the counter affidavit that there are also independent members belonging to each Vagaiyara, who are recognised as Poojari. There are also other heads of other communities,, particularly Kallar



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Karai, Mutharaiyar Karai, Muslim Karai, Asari Karai, Konar Karai, Velar Karai and Devendirakula Vellalar Karai. It was also stated that a peace committee meeting was conducted on 07.02.2003, in which, the petitioner had not participated. However, other members participated in the said peace committee meeting.

6.While this was the position, an impleading petition has been filed by a third party, in WMP(MD)No.8131 of 2023, by one Muthu Veerannan, who belongs to Kallar Karai. The second petitioner, who had also joined in WMP(MD) No.8131 of 2023, belongs to KaruvaiPiraman community. They had sought permission to be impleaded as further respondents in the writ petition.

7.Heard, the learned counsel for the petitioner, learned counsel for the impleading petitioners and the learned Special Government Pleader, who appears for the respondents.

8.The writ petitioner in his affidavit had stated that the temple namely Arulmighu Periya Manthai Savadi Karuppasamy temple is situated at



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S.No.741/29 in an extent of 15 acres. It was stated that originally a suit was filed in O.S.No.165 of 2014, but that was withdrawn and yet another suit in O.S.No.183 of 2021 came to be filed, which is now pending.

9.It was stated that there was an attempt by one community people to take over the properties of the temple. It is thus seen that there has been differences of opinion, owing to worshipping of temple and possession or right to enjoy the properties of the temple. It had been contended that so far as worshipping is concerned, Poojaris are normally selected from various Vagaiyaras of Adi Dravidar Community, without any hindrance or differences among themselves.

10.In addition the suits have widened the differences among the community people. As on date there are two different versions given, namely, that a suit is pending in O.S.No.183 of 2021 and also that it has been dismissed. At any rate, either pendency or disposal of the suit would not have any bearing on the order passed in this petition.



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11.The learned counsel for the petitioner for the impleading petitioners placed reliance on the following Judgments of Hon'ble Supreme Court:

(I).Civil Appeal No.2848 of 2021 in Shubhas Jain vs Rajeshwari

Shivam, wherein specific reference was made to paragraph No.26.

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

(i)The Supreme Court had placed a word of caution to High Courts while exercising the power under Article 226 of Constitution of India, not to enter into any dispute relating to controversies in fact.

(ii)In the instant case, it would be only appropriate that peace should be brought among the community people. Filing of a suit, withdrawal of suit, would not be give any assistance to any community people. A duty cast upon this Court is to make all community people to worship in the temple and assist them to resolve the issues among them. The revenue authorities should conduct a peace committee meeting by including all the community



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people, so that either Kumbabhishekam or any other festival can be conducted peacefully in the village.

(II)2010(2) SCC 114 in *Dalip Singh vs State Of U.P. & Ors*,

wherein, reliance had been placed on paragraph number 24.

“From what we have mentioned above, it is clear that in this case efforts to mislead the authorities and the courts have transmitted through three generations and the conduct of the appellant and his son to mislead the High Court and this Court cannot, but be treated as reprehensible. They belong to the category of persons who not only attempt, but succeed in polluting the course of justice. Therefore, we do not find any justification to interfere with the order under challenge or entertain the appellant's prayer for setting aside the orders passed by the Prescribed Authority and the Appellate Authority.”

(i)Once again, the Hon'ble Supreme Court had expressed an opinion about the conduct of litigants who try to mislead the Court. It had been actually observed that they pollute a Court of Justice.

(ii)In the instant case, I would examine the issue raised by the petitioner, as a cry for permission for conducting the festivals of the temple. While seeking that particular relief among different communities, who are



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residents in the village, naturally while drafting an affidavit there could be averments made without much thought. It should be ensured that irrespective of such frivolous statements being made in the affidavit, peace is maintained in the said village.

(III) In **2010 14 SCC 38 in Ramjas Foundation & Ors vs Union Of India & Ors on 9 November, 2010**, wherein, again the Supreme Court had stated about litigants who did not come to the Court, disclosing the correct facts, and as a matter of fact, who can be categorized as having come to Court without clean hands. The said persons are not entitled to be heard on the merits of their grievance and are not entitled for any relief at all.

12.It must be kept in mind that the relief sought in the writ petition is for one village, one temple in that particular village to ensure that peace runs among the people and everybody is able to worship in the temple and the functions of the temple are to be conducted in a peaceful manner.

13.In the affidavit filed by the impleading petitioners, in support of the impleading petition, the contentions raised by the writ petitioner had



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been denied and disputed. It had been stated that the entire villagers have decided to renovate the temple. There cannot be any kumbhabishekam or any festival for atleast for three months. The apprehension of petitioner is premature and there is no cause of action and the writ petition should suffer an order of dismissal. It is further stated that the temple is more than 200 years old and the customary practice of honoring Scheduled Community people is followed for the past 200 years. It had been stated that the functions are celebrated in a particular manner and for that, all the entire villagers should be united and they would celebrate the festival joining hands together with each other.

14.The learned Special Government Pleader placed reliance on the counter affidavit filed by the Inspector of Police. It had been stated that the village is populated by several community people. Everybody must be given the right to worship in the temple and right to participate in the function.

15.I have given careful consideration on to the nature of dispute among the villagers.

10/15



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16.It is a fact that in the said village there are several community members. Their names have already been listed and their names need not be repeated again and again. The community leader in each community might change owing to various reasons. Different communities will have separate representatives. However, each community must be represented not only by its leader but also by every members. The custom of appointment of poojari within the four vakaiyaras must continue. Every member of the community must be permitted to worship in the temple. There must be peace and harmony in the minds of every people. It is also seen from the facts that owing to COVID-19 and other issues, there were failures in the maintenance work of the temple. Let that work continue. In the first place, let a decision be taken to determine a particular date for conducting the Maha kumbhabhishegam, which cannot be conducted as per whims and fancies, but on determining a particular date. Thereafter, every member should participate in the Kumbabhishekam.

17.It is stated that the petitioner did not participate in the peace committee meeting. The petitioner should participate in the peace committee



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meeting and the entire village should ensure that the festival is conducted in a peaceful manner.

18. For this purpose, I would fix responsibility on the revenue officials, particularly, the second and fourth respondents, namely the Revenue Divisional Officer, Melur, Madurai District and the Deputy Superintendent of Police, Melur Sub Division, Madurai District. Both the officials must take the matter in their hand, call for a meeting among all the community people, issue notice to every member or every representative of all the community and vagaiyaras and poojaris. Let them meet in one place and the second and fourth respondents shall convene the meeting only for the purpose of conducting festivals of the temple. In the first meeting, let a schedule be drawn for the various festivals to be conducted in the temple. Let those dates be determined monthly or yearly by the present representatives of every community. In the affidavit and in the counter affidavit, several names were given. Those names may change on rotation. Let one or at the most three members, lead each community people and thereafter, let an independent peace committee meeting with all those people and anybody else want to participate be conducted. In the meeting, guidelines can be framed for



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conducting the festivals of the temple. The petitioner herein must also go with an open mind and participate in the meeting.

19.The second and fourth respondents/Revenue Divisional Officer, Melur, Madurai District and the Deputy Superintendent Of Police, Melur Sub Division, Madurai District may make a fresh beginning, leave out the averments in the suit, which can be decided by the District Munsif, Melur in manner known to law.

20.I hope that by not mentioning any specific individual, this Court has left the doors open for every member of all community to take a to participate in the temple festival and worship the Deity. I hope that all the villagers will abide by any decision taken in the said meeting. No further order is required.

21.After hearing the counsel in WMP(MD) No.8131 of 2023, the said petition is allowed. Before issuing the order copy, Registry is directed to implead the petitioners in WMP(MD) No.8131 of 2023 as the respondents 6 and 7 in the writ petition.



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22. With the above directions, this Writ Petition stands disposed.

No costs.

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NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM
To

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Madurai District, Madurai.
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C.V.KARTHIKEYAN, J.

PNM

ORDER IN
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