



W.P(MD)No.2084 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD)No.2084 of 2023
and W.M.P.(MD).No.1860 of 1963

1.Marakannu Chettiyar Memorial
Charitable Educational Trust,
Rep. by its Trustee,
P.Ilango, S/o.Late.M.Ponnaiya Chettiyar,
Door No.8, Sevalpatti South Street,
Rajapalayam - 626 117,
Virudhunagar District.

2.P.Ilango

3.M.Shanmugavadivu

4.M.Rajeshwari

... Petitioners

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Deputy Superintendent of Police,
Rajapalayam,
Virudhunagar District.

3.The Inspector of Police,
North Police Station,
Rajapalayam.

4.Mr.Marakannu



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5.Ponvidhya

6.Murugavignesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent police authorities to provide adequate police protection to the petitioners to elect the Managing Trustee of Marakannu Chettiyar Memorial Charitable Educational Trust, at the venue i.e. Marriage Hall on specified dates and manage its affairs pursuant to the Judgment and Decree granted by the Learned Additional Sub Court, Srivilliputhur, in O.S.No. 56/2004, dated 02.03.2020.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.B.Nambiselvam for R1 to R3
Additional Public Prosecutor

Mr.A.Mohan for R4

Mr.S.Santhakumar for R6

No Appearance for R5

ORDER

The writ petitioner filed this Writ Petition seeking for issuance of Writ of Mandamus, directing the respondent police authorities to provide adequate police protection to the petitioners to elect the Managing Trustee of Marakannu Chettiyar Memorial Charitable Educational Trust,



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at the venue i.e. Marriage Hall on specified dates and manage its affairs pursuant to the Judgment and Decree granted by the Learned Additional Sub Court, Srivilliputhur, in O.S.No. 56/2004, dated 02.03.2020.

2.The facts in brief:

The petitioner is the Trustee of Marakannu Chettiyar Memorial Charitable Educational Trust. One Ponnaiya as founder formed a Public Educational Trust in memory of his father, which was called as the Trust as mentioned above. The Trust Deed is dated 27.01.1975. During his life time, he was managing the above said Trust. The Management established a Marriage Hall in one of the properties and an Educational Institution in the name of Vallalar Illam. As per the above said Trust deed, his legal heirs are entitled to become the Trustees after his life time.

3.He died on 02.11.2002 leaving behind his wife, Rajeswari the fourth petitioner, the third petitioner and the second petitioner as his legal heirs.



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4.The fourth respondent is the eldest son of Ponnaiah Chettiyar. He attempted to collect donations from the public and tried to grab the property. So a suit in O.S.No.56 of 2004 was filed before the Additional Sub Court, Srivilliputtur, claiming some relief. That was decreed on 02.03.2020 and declaration was also granted to the effect that the property belongs to the above said Trust and a scheme was also framed, by which, the legal heirs of Ponnaiah Chettiyar and the 3rd defendant Rajammal were declared as Trustees. Among them one person must be elected as Managing Trustee. He must hold the post for three years and he must also act as Correspondent of Vallalar Illam. On the expiry of three years, the above said person must hand over or submit the documents, accounts, etc. to the subsequent elected Managing Trustee. If any dispute arises with regard to the election of the Managing Trustee liberty was granted to the Trustees to get remedy by way of filing an application before that Court.

5.Based upon the above said scheme decree, a notice was given on 14.09.2022 to all the trustees of the Trust informing that a meeting is propsoed to be held on 21.09.2022. On receiving the notice Marakkannu, the fourth respondent herein, forcibly locked the Marriage



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Hall, where the meeting proposed to be held and the above said proposed election was to be held. So a complaint was given on 21.09.2022 before the third respondent. CSRNo.962 of 2022 was also issued. But, there was no action. Later, only appeal was preferred by the fourth respondent herein with inordinate delay of 922 days before the Principal District Judge, Srivilliputtur on 11.10.2022, which is stated to be pending.

6.Now for executing the above said scheme decree a representation was made to grant police protection for conducting the above said election.

7.Heard both sides.

8.There is no dispute with regard to the Trust. It is also not in dispute that a scheme decree was passed by the competent civil Court. Now, the appeal with inordinate delay of 922 days alleged to have been filed by the fourth respondent herein before the learned Principal District Judge, Srivilliputtur. Now it is stated to be pending.

9.Now the learned counsel for the petitioner would submit that as



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per the above said scheme decree, the election must be held for electing one of the Trustee as Managing Trustee to manage the Trust, Educational Institutions, etc., Objection has been made by the fourth respondent and he locked the marriage hall, where the above said proposed meeting for election to be held.

10.The detailed counter has been filed by the fourth respondent, who submit that as per the decree, the petitioner can workout his remedy. An enquiry that was conducted by the third respondent based upon the representation made by the second petitioner, was closed directing the parties, to approach the competent civil Court. So according to him, police protection for such a purpose cannot be extended.

11.Apart from that he also challenged the decree, which has been passed by the trial Court. He questioned the jurisdiction of the Sub Court to pass such a decree. According to him, as per the Trust Act, only the District Court can entertain the suit. The Trust Deed was not properly appreciated by the trial Court. This Bench is not competent to record any observation or finding on the above said contentions. Since a civil Court decree in the form of scheme has already passed, it must be taken to its



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logical conclusion and approach.

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12.The learned counsel for the petitioner would submit that since already decree has been passed, he got several right to execute the same. For which, the fourth respondent cannot make any objection. Only for limited purpose of holding the meeting for conducting the election, the above said representation has been made. When civil Court decree is in his favour, the third respondent is duty bound to extend the police protection.

13.For that purpose he would rely upon the judgments made
1.in the case ***S.Ashokan and others Vs. State Rep. by the Commissioner of Police, The Greater Chennai and others*** by this Court reported in ***2015 SCC Online Mad 7111*** and
2. in the case of ***S.J.Sujayakumari Vs. The Superintendent of Police, Nagercoil, Kanniyakumari District and others***, by this Court, made in ***Crl.O.P.(MD).No.17733 of 2019***, dated 28.04.2022.

14.Per contra the learned Additional Public Prosecutor would submit that since already a representation that was made by the petitioner



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was closed, nothing remains to be enquired.

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15.Now the question which arises for consideration is whether for the purpose of holding election as per the scheme decree, police protection can be extended. The scheme decree itself gives relief to get over such a situation as it has been now created by the fourth respondent in the form of locking the marriage hall and to hold the election. Class D of the decree reads as under.

“When there is any dispute with respect to the election of the Managing Trustee, the Trustees can have remedy by way of filing an application before this Court.”

16.It appears that the trial Court was conscious about the future events, that is why it is taken care for the future also. When the trial Court passed such a decree, filing of the representation to get the order of execution is not understandable. But when I pointed out it to the petitioner's counsel, he would submit that already there is a decree in his favour and in view of the settled position of law as mentioned above the police protection must be granted. But I am unable to agree this line of



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argument for the simple reason that the police protection for such event cannot be granted. When a remedy has pointed out in class D of the above said decree without resorting to such remedy the petitioner has directly approached the third respondent with a request for granting police protection.

17.In my considered view a civil Court decree cannot be executed in the form of order of granting police protection. So I am of the considered view that this writ petition itself is not maintainable. Accordingly, it is liable to be dismissed, of course with the liberty to the petitioner to exercise the power or right mentioned in class D of the civil court scheme decree.

18.With the above liberty, this writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
TM



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To

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- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Deputy Superintendent of Police,
Rajapalayam,
Virudhunagar District.
- 3.The Inspector of Police,
North Police Station,
Rajapalayam.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA, J

TM

Order made in
W.P(MD)No.2084 of 2023

Dated 24.04.2023