



W.P(MD)No.2819 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.2819 of 2023
and
W.M.P(MD)No.2620 of 2023**

T.Thankam

... Petitioner

VS.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
- 3.The Sub Collector,
Padmanabhapuram Division,
Thuckaly,
Kanyakumari District.
- 4.The Tahsildar,
Killiyoor Taluk,
Tholaiyavattam Post,
Kanyakumari District.
- 5.The Deputy Superintendent of Police,
Colachel Division,
Colachel Post, Kanyakumari District.

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6.The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.

7.The President,
Mankadu,
Mankadu Post,
Kanyakumari District.

8.L.Selvadhas

9.M.Manoj

10.S.Sujin

11.N.Sunil

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to consider the petitioner's representation dated 02.01.2023 for removing the unauthorized Temple of Arulmighu Nagamuttam Nagaraja Temple situated in R.S.No.471/14, Nagamuttam, Mankadu Post in Mankadu Village, Killiyur Taluk, Kanyakumari District where daily poojas, regular rituals and annual celebrations are conducting the respondents 8 to 11 and their associates without getting proper permission from the officials.

For Petitioner : Mr.C.Ezhilarasu

For RR 1, 3 & 4 : Mr.P.Thilak Kumar
Government Pleader

For RR 2, 5 & 6 : Mr.S.Manikandan
Government Advocate (Criminal Side)

For R – 7 : Mr.V.Nirmal Kumar
Government Advocate

For RR 8 to 11 : Mr.K.Jeya Mohan

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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to consider the petitioner's representation, dated 02.01.2023 for removing the unauthorized Temple of Arulmighu Nagamuttam Nagaraja Temple situated in R.S.No.471/14, Nagamuttam, Mankadu Post in Mankadu Village, Killiyur Taluk, Kanyakumari District, where, daily poojas, regular rituals and annual celebrations are conducted by the respondents 8 to 11 and their associates without getting proper permission from the officials.

2.According to the petitioner, every year the eighth respondent along with his associates celebrate their Temple function in Kaliakkavilai – Nithiravilai Road without obtaining due permission from respondents 1 to 7 and thereby creating disturbance to the public to enable the use of the road due to the celebration of 7 days festival and further using the loudspeaker and creating sound noise to the public, students and patients of the locality. Further, the petitioner made an allegation that the conditional permission



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granted by the official respondents and the said conditional permission has been violated by the 8th respondent. Further, according to the petitioner, last year, private respondents 8 to 11 violated the condition and the petitioner gave a complaint before the sixth respondent. This year also, respondents 8 to 11 are likely to celebrate the festival from 27.02.2023 to 05.03.2023. Hence, the petitioner made a representation, dated 02.01.2023, stating that the aforesaid festival if conducted, will affect the general public and thereby cause nuisance to them. Till date, no action has been taken. Hence, the petitioner has filed the present Writ Petition before this Court.

3.The learned Government Pleader appearing for the respondents 1, 3 and 4 submitted that the application submitted by the private respondents 8 to 11 has been considered taking into account the various factors and the authority concerned had granted permission with conditions imposed in the line of the decision of the Honourable Supreme Court and the instructions issued by the Department. Further, the learned Government Pleader submitted that if any violation of the aforesaid conditions imposed by the official respondents, the authority concerned will take necessary action in accordance with law.



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4.The learned counsel appearing for the respondents 8 to 11 submitted that the respondents 8 to 11 are the organizers of the Temple festival and affirmed that the private respondents 8 to 11 shall comply with the conditions imposed by the authority. The petitioner has filed the present Writ Petition with an apprehension and that no material has been placed for anticipating any violation of the condition. Further, it is brought to the notice of this Court that the prayer sought for removal of the Temple has nothing to do with the representation submitted by the petitioner, dated 02.01.2023. The representation is only for taking action to stall the festival. According to the respondents 8 to 11, the intention of the petitioner is not in the interest of the public, but it is only of private interest to stall the festival to be conducted from 27.02.2023 to 05.03.2023.

5.According to the respondents 8 to 11, earlier the petitioner had filed a Writ Petition for the construction of a Church in between Two Temples viz., Arulmighu Nagamuttam Nagaraja Temple and Kandan Sastha Temple and the same went up to Supreme Court. The petitioner's case was rejected by the Honourable Supreme Court and therefore, she was not able to construct the Church in the aforesaid place. Due to personal vengeance as against the private respondents 8 to 11, the petitioner has filed the



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present Writ Petition not under the guise of public interest, but under the guise of private interest. The learned counsel appearing for the respondents 8 to 11 further submitted that the prayer sought by the petitioner is entirely different from the representation, dated 02.01.2023 and the Writ Petition is liable to be rejected with imposing costs.

6.Heard the learned counsels appearing on either side and perused the materials available on record.

7.On a perusal of the materials available on record, it is seen that the petitioner mainly relied upon the permission granted by the Police Official for the last year to conduct the festival and subsequently, according to the petitioner, the conditions imposed by the police authorities were not followed. Since respondents 8 to 11 have violated the conditions, the petitioner has also made a complaint before the Police. Therefore, the submission of the learned counsel appearing for the petitioner that even though the condition has been imposed, there is a likelihood of the violation of the condition.



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8.The prayer sought for by the petitioner in the Writ Petition is to direct the respondents 1 to 7 to remove the unauthorized Temple of Aulmighu Nagamuttam Nagaraja Temple and the respondents 8 to 11 are conducting the Temple festival without getting proper permission.

9.On a perusal of the representation, dated 02.01.2023, it is seen that the prayer in the representation is entirely different questioning about the violations of the conditions imposed by the official respondents and therefore, the prayer itself suffers legal infirmity. On this ground also, we are not inclined to entertain the Writ Petition.

10.Further, the allegation made in the affidavit filed in support of the Writ Petition is that the respondents 8 to 11 are violating the conditions imposed by the respondent Police concerned, for which, the learned counsel appearing for the private respondents 8 to 11 undertakes that they will comply with the conditions imposed by the police officials.

11.It is the submission of the learned counsel appearing for the petitioner that during the last occasion, the petitioner made a complaint before the police officials, for which, the learned Government Pleader has



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WEB COPY informed that an enquiry has been conducted in the said complaint and the same has been closed by the police officials.

12.In view of the above facts and circumstances, it is seen that the contention of the petitioner does not inflict the true facts. If the petitioner is so aggrieved by closure of the earlier complaint, the remedy is available to the petitioner to adjudicate the same in the manner known to law. However, the petitioner having slept over the matter for all these years and suddenly, when the respondents 8 to 11 intend to celebrate the festival from 27.02.2023 to 02.03.2023, has filed the present Writ Petition stating that during the last year, the respondents 8 to 11 have violated the conditions. There is no material placed before this Court to show that there is a violation of the conditions by the private respondents 8 to 11.

13.Considering the fact that the sixth respondent/the Inspector of Police has granted permission for conducting the festival with conditions imposed, we are of the view that the Additional Deputy Superintendent of Police is directed to monitor the festival to be conducted from 27.02.2023 to 05.03.2023 and also instruct the respondents 8 to 11 strictly to comply with the conditions imposed.

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14.With the above observations, this Writ Petition is dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [L.V.G.,J.]
13.02.2023

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

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Nagercoil.
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and

L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
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