BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.08.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.14824 of 2021

Manimaran @ Murugan ... Petitioner

-Vs-

1. The District Collector
   Thoothukudi District

2. The Tahsildhar
   Tiruchendur Taluk
   Thoothukudi District

3. The Inspector of Police
   Tiruchendur Police Station,
   Thoothukudi District

4. A.Raj
5. A.Sangar @ Sanga Tamilan
6. C.Johnraj @ Sivaraja
7. K.Pattanimuthu ... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to take suitable action as against the act of excommunication done by the respondents 4 to 7 by considering the complaint dated 11.01.2021.

For Petitioner : Mr. D.Venkatesh

For R1 to R3 : Mr. R.M.Anbunithi
Additional Public Prosecutor

For R4 & R7 : Mr.A.Robinson

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus to direct the respondents 1 to 3 to take suitable action as against the act of excommunication done by the respondents 4 to 7 by considering the complaint dated 11.01.2021

2. According to the petitioner there was a Amman temple situated in his street and from the year 2012 with the help of his community people he did repairing work and kumbabishekam was also conducted. The accounts details of the said events were scrutinized on 24.10.2017 in the presence of administrators and the community people. Already the respondents 4 to 7 have enmity with the petitioner not only on administrative reason bust also on personal score. In order to finalize the repayment of borrowal and the excess payment a meeting was organized on 12.11.2017 and at that time the respondents 4 to 7 proclaimed that they are going to take care of the administration of the temple and thereafter they gave complaint before the Revenue Divisional Officer and it was forwarded to the

third respondent. As per the instructions of the Revenue Divisional Officer the accounts were finalized in the presence of third respondent. Thereafter from the year 2018 the respondents 4 to 7 intended to ex-communicate the petitioner and his family members and close relatives and they refused to collect tax. On 26.08.2018 and 29.08.2018 during temple festival the petitioner was threatened and his family members were also excommunicated and not allowed to take part in the temple festival. Based on that First Information Report has been registered in Crime No.265 of 2018 for the offences under Sections 147,294(b),506(i) of IPC. On 29.12.2019 and the petitioner and his relatives appeared before the second respondent and gave representation with regard to excommunication. The petitioner also made complaint before the first respondent on 11.01.2021 and the same was forwarded to the second respondent ,but no action was taken. Hence he has filed the present petition to consider the representation dated 11.01.2021.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner contended that the petitioner has given complaint before the official respondent for excommunication dated 11.01.2021, thereafter peace committee

meeting was convened and three resolutions were passed and even after the peace committee meeting the respondents have not followed the resolutions and still excommunication continues and the respondents refused to receive tax from the petitioner, thereby he has sent communication to the respondents and the same was not considered. The learned counsel appearing for the petitioner relied on the judgment of the Hon'ble Apex Court in the case of ***M.Sudakar .vs. V.Manoharan and Others*** in **Civil Appeal No. 10319 of 2010.**

5. The learned counsel appearing for the private respondents contended that already peace committee meeting was conducted and there was some dispute with regard to collection of amount and further the petitioner has not paid arrears of tax and no excommunication was made by the respondents. The petitioner only refused to pay arrears of tax for the temple

6. The learned Additional Public Prosecutor appearing for the official respondents would contend that there was a dispute between the parties with regard to the administration of the temple and this petitioner was only managing the temple and thereafter new committee was formed. Thereafter the petitioner gave complaint

before the police and the police also registered the First Information Report against the respondents and other and the same in pending in STC No.914 of 2019. Already peace committee meeting was conducted and in the said meeting both the parties agreed to receive tax and they have not excommunicated the petitioner , hence the petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On perusal of the record it is observed that there was a dispute between the parties with regard to the administration of the temple and already the petitioner gave complaint and the same was considered by the official respondents. Peace committee meeting was also conducted and as per the peace committee meeting both parties agreed to settle the matter and the private respondents also agreed to receive tax from the petitioner. The respondents stated that they have not excommunicated the petitioner and further as per the resolution of the peace committee the petitioner has to remit the account to the respondents. According to the petitioner the said resolution have not been followed by the respondents and still excommunication is continuing and the respondents refused to receive tax and also

refused to see the accounts. Thereby he prayed that though the earlier representation was considered this Court can mould the relief for which he relied on the judgment of the Hon'ble Apex Court in the case of ***M.Sudakar .vs. V.Manoharan and Others*** in **Civil Appeal No. 10319 of 2010,** wherein it is held as follows:

> *"The power to mould relief is always available to the Court possessed with the power to issue high prerogative writs. In order to do complete justice it can mould the relief, depending upon the facts and circumstances of the case. In the facts of a given case a writ petitioner may not be entitled to the specific relief claimed by him but this itself will not preclude the Writ Court to grant such other relief which he is otherwise entitled. Further delay and latches does not bar the jurisdiction of the Court. It is a matter of discretion and not of jurisdiction. The learned Single Judge had taken note of the relevant facts and declined to dismiss the writ petition on the ground of delay and latches"*

9. On a careful reading of the above judgment it is clear that under Article 226 of the Constitution of the India this Court can mould the relief of the petitioner. Since the representation of the petitioner was already considered by the official respondents and peace committee meeting was also conducted between the parties and in the peace committee meeting both parties agreed to settle the matter no further order from this Court is required. However the learned counsel for the petitioner represented that the respondents are still refusing to receive the tax for temple from the petitioner but the learned counsel appearing for the private respondents

represented that they are ready to receive the tax for temple with arrears, but the petitioner is not ready to pay the arrears of tax. The representation of the counsel for the private respondent is recorded.

10. In view of the above representation made by the learned counsel appearing on either side and the private respondents are ready to collect tax amount from the petitioner with arrears it is appropriate to fix a time for payment of temple tax. Accordingly the petitioner can approach the respondent 4 to 7 private respondents within a period of six weeks from the date of receipt of a copy of this order and the respondents 4 to 7 can collect the tax and utilize for temple purpose. If there is any violation the petitioner is at liberty to approach the authorities concerned according to law. In so far as accounts is concerned the petitioner has to work out his remedy through proper channel in accordance with law.

11. With the above direction, the Writ Petition stands disposed of. No costs.

07.08.2023

Index : Yes/No
Internet : Yes/No
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   Thoothukudi District

3. The Inspector of Police
   Tiruchendur Police Station,
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4. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai.

P.DHANABAL, J.

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