



W.P(MD) No.14844 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.08.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.14844 of 2021

and

W.M.P(MD) No.11748 of 2021

P.R.U. Palaniyandi Ambalam

... Petitioner

-Vs-

1. The Revenue Divisional Officer
Iluppur, Pudukottai District
2. The Deputy Superintendent of Police
Iluppur, Pudukottai District
3. The Thasildhar
Ponnamaravathi
Pudukottai District
4. The Joint Commissioner
HRCE Department
Tiruchirapalli
5. The Inspector of Police
Karaiyur Police Station,
Pudukottai District
6. The Inspector
HRCE Department
Thirumayam
Pudukottai District
7. Palanichamy
8. Muthan @ Muthaiah

... Respondents



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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 and 5 to initiate proceedings under sections 145 Cr.P.C proceedings on the basis of the petitioner's representation dated 05.08.2021, with regard to Murugan Temple situated in Natham Survey No.91/1 at Udayampatti Village, Maravamadurai Revenue Village, Ponnamaravathi Taluk, Pudukkottai District

For Petitioner	: Mr. R.Murugappan
For R1 to R6	: Mr. R.M.Anbunithi Additional Public Prosecutor
For R7 and R8	: Mr.K.C.Muniyarasu

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus to direct the respondents 1 and 5 to initiate proceedings under sections 145 Cr.P.C proceedings on the basis of the petitioner's representation dated 05.08.2021, with regard to Murugan Temple situated in Natham Survey No.91/1 at Udayampatti Village, Maravamadurai Revenue Village, Ponnamaravathi Taluk, Pudukkottai District

2. According to the petitioner in their village there is a Murugan temple situated in Natham Survey No.91/1 and for that temple the petitioner is the hereditary Trustee and Priest. For more than four



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generation the petitioner's family is doing service of Priest and Trustee to the aforesaid temple. The respondents 7 and 8 belongs to the same village and they are causing nuisance about the service of doing Trustee and Priest. The petitioner also filed a suit in O.S. No.92 of 2017 before the District Munsif Court, Thirumayam, Pudukottai District and the same is pending. Further he also filed petition under Section 66(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 before the fourth respondent for appointing him as hereditary Trustee and the same is also pending. Whiles the respondents 7 and 8 with an intention to create law and order problem they along with others every time while the petitioner was performing poojas they came there and caused nuisance and also started constructing another temple very near the aforesaid temple and caused disturbance of public tranquility in the village. Therefore he lodged complaint before the first respondent on 14.07.2020 and the same was forwarded to the third respondent for conducting peace committee meeting. But still now the third respondent has not conducted any peace committee meeting, therefore he has filed a Writ Petition in W.P(MD) No.9211 of 2021 directing the third respondent to conduct peace committee meeting and the same is pending. Despite the respondents 7 and 8 and their henchmen every day causing public nuisance and disturbance in the village, thereby he



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made representation dated 04.05.2021 and 05.08.2021 to the respondents 1 and 5 for initiating proceedings under Sections 145 and 107 of Cr.P.C respectively. The said representations have not been considered by the respondents. Hence he has filed the present petition for direction to consider those representations.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would contend that there is a civil dispute pending between the petitioner and the private respondents with regard to worship of temple. The respondents 7 and 8 are causing disturbance to the petitioner while conducting pooja and thereby he made complaint before the respondent police. Thereafter he lodged complaints on 04.05.2021 and 05.08.2021 for initiation of proceedings under Sections 145 and 109 of Cr.P.C to maintain peace but the same were not considered by the respondents, thereby he prays to issue direction to the respondent consider the those representations and to initiate proceedings according to law.

5. The learned Additional Public Prosecutor appearing for the official respondents represented that there is a dispute pending



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between the petitioner and the private respondents with regard to conducting Kumbabhishegam and the said Kumbabhishegam was already conducted and thereafter peace committee was conducted between the parties and still it is going on and the First Information Report was also registered as against the persons who conducted Kumbabhishegam without permission and thereby the petition is liable to be dismissed.

6. The learned counsel appearing for the private respondent contended that from the year 1995 there is a civil dispute pending between the petitioner and the private respondents and the villagers have not prevented the petitioner from worshipping . The petitioner already filed a Writ petition before this Court for conducting peace committee meeting and during pendency of that writ petition he has filed another petition seeking initiation of proceedings under Section 145 of Cr.P.C which is not maintainable and the petition is liable to be dismissed.

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



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8. It is an admitted fact that there is a dispute with regard to the worshipping of Murugan temple and civil suit is also pending between the parties before the Civil Court. As rightly contended by the learned counsel appearing for the official respondents already Kumbabhishegam was conducted without permission from the concerned authorities and thereby First Information Report was also registered against the persons who conducted Kumbabhishegam and already the proceedings was initiated for conducting peace committee meeting by the concerned officials and it is still going on. Already the same petitioner filed a writ petition for convening peace committee meeting and the same is pending, in the mean time the official respondents also conducted peace committee and no settlement was arrived and still it is continuing. While the facts are being so, the petitioner now filed this petition to initiate proceedings under Section 145 of Cr.P.C.

9. Under these circumstances it is relevant to refer the provisions under Sections 145 of Cr.P.C., which reads as follows:

Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof,



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within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute

10. From the reading of the above provision it is clear that the Executive Magistrate has to satisfy with the report of the police or upon other information and he is being so satisfied he has to proceed further. In this case already there is dispute pending between the parties and peace committee meeting was conducted and it is for the fourth respondent to decide whether proceedings under Section 145 of Cr.P.C has to be initiated or not. The petitioner cannot seek any direction from this Court for initiating proceedings under Section 145 of Cr.P.C. The Executive Magistrate has to satisfy and to decide whether proceedings under Section 145 Cr.P.C can be initiated or not depending upon the nature of case. Therefore this petitioner cannot compel the respondents to initiate proceedings under Section 145 of Cr.P.C. Therefore this Court is declined to pass any order directing the respondents 1 and 5 to initiate proceedings under Section 145 of



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Cr.P.C based on the representation of the petitioner dated
05.08.2021..

11. In view of the same, the Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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Madurai Bench of Madras High Court
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P.DHANABAL, J.

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