



WEB COPY



W.P.(MD)No.17918 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17918 of 2024

and

W.M.P.(MD)No.15770 of 2024

Nagaraj

... Petitioner

Vs.

The State rep by its

1.The District Collector,
Collectorate, Tenkasi District.

2.The Revenue Divisional Officer,
RDO's Office, Sankarankovil,
Tenkasi District.

3.The Inspector of Police,
Thiruvengadam Police Station,
Thiruvengadam, Tenkasi District.

4.Navaneetha Krishnan

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the first and second respondents to inspect the petitioner's village to grant permission and police protection for the events in connection with the Madasamy Temple festival slated to be held from 13.08.2024 to 16.08.2024 in the Kurunjakulam Village.

For Petitioner : Mr.G.Thalaimutharasu
Mr.D.Mario Johnson

For R4 : Mr.R.J.Karthik



WEB COPY

W.P.(MD)No.17918 of 2024



For R1 & R2 : Mr.D.Gandhiraj
Special Government Pleader
For R3 : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crl.side)

ORDER

This writ petition has been filed seeking a direction to the first and second respondents to inspect the petitioner's village to grant permission and police protection for the events in connection with the Madasamy Temple festival slated to be held from 13.08.2024 to 16.08.2024 in Kurunjakulam Village.

2.The case of the writ petitioner is that there are 250 families of Scheduled Caste people living in the petitioner's village. The celebration of the festival of Madasamy temple every year in the month of Aadi is the customary practice of petitioner's village. This year, it was scheduled to be held from 13.08.2024 to 16.08.2024. When the petitioner filed a petition seeking permission and protection to conduct the said festival, the third respondent refused to grant such permission without any reasons. Whereas, the third respondent had given permission for the festival conducted by the rival group for a period of seven days. Thereafter, the petitioner made representations before the first and second respondents seeking permission to conduct the festival. However, the same was not considered till today. Hence, the petitioner has filed this writ petition for the above said relief.



3.It is the contention of the petitioner that in the year 1992, at the time of celebrating the festival, four innocent people were murdered and following the said occurrence, the District Administration had been imposing lot of restrictions on the people of the petitioner's village during the time of festivals. Further, the common land was opposed to be used by the petitioner's village. In a writ petition filed by the rival group in W.P.(MD)No.29126 of 2022 seeking to put up a construction in the said common land, this Court had observed that no political or caste centric meetings or events could be conducted in the said place and the same shall be used to conduct events involving children after getting prior permission from the officials concerned. However, mere citing the above writ petition and without any valid reasons, the respondents are not permitting the petitioner's village to conduct the village festival.

4.The third respondent had filed a status report stating that the permission for customary festival was never rejected by the police. The petitioner had asked permission to conduct cultural events and devotional villu pattu in the disputed land itself and hence, the permission sought by the petitioner was rejected by citing the earlier writ petition in W.P.(MD)No.29126 of 2022.

5.He further submitted that two community people of the petitioner's village are celebrating the festival on the same day and the other community



people also has the necessity to pass through the streets of the petitioner's community area for their rituals and hence, it is essential to maintain peace and order and the people of the two groups should be avoided in meeting each other during their customary practices. Further, the dispute is among the two different communities in using the disputed land and the same has been given a communal and political colour to create a breach in law and order. To resolve the situation, multiple talks were conducted with the villagers of both the communities for arriving at a consensus among the two communities for conducting the festival peacefully, but it was not successful.

6.The Tahsildar, Sankarankovil has also filed a report stating that in the year 1992, with regard to the conduct of festival, four innocents were murdered. Therefore, the land, which was in dispute, was declared as government land and was directed to be used only for the purpose of conducting children programmes. Further, during the last year, the petitioner was given with permission to celebrate only the customary practice of worshipping deity and the same was conducted in a peaceful manner.

7.The learned counsel for the petitioner would mainly contend that the land in dispute belongs to the Government and the petitioner has no other land to conduct the festival except the said land. Whereas, though the fourth



respondent who is the rival party, has their own sufficient space for conducting the festival, he has been given with permission to use the said land for conducting the festival.

8.The learned Special Government Pleader for the official respondents submitted that this issue has seen four murders in the year 1992. The disputed area is also declared as government land after that incident. In the earlier writ petition filed by a person belonging to the other community in W.P.(MD)No. 29126 of 2022, this Court has granted permission only to conduct children's programmes in the disputed area and observed that no political or communal activities are allowed to take place in that area, since the same will lead to serious land and order issue.

9.The learned counsel for the fourth respondent submitted that normally, both the community people are living in harmony in his village. However, during the festival time, some third parties and political associations come from other district and create issues among the people of his village, which infact leads to serious law and order problems. Hence, opposed this writ petition.

10.I have heard the submissions made on either side and perused the entire materials placed on record.



11.The petitioner seeks to conduct the festival in the land, in which four innocents were murdered in the year 1992. The fact that four persons were murdered due to the conduct of the festival is not denied. The land in dispute was originally a patta land and after that incident, the said land was declared as a Government land and no permission was granted to anyone to use the said land so far. Now the petitioner insists to use the said land for the purpose of conducting festival. Whereas, the respondents had contended that under the pretext of the festival, some outsiders and political association are trying to influence the people in their locality, which will create serious law and order issues.

12.It is relevant to note that in the writ petition in W.P.(MD)No.29126 of 2022 filed by the other group, this Court by an order dated 01.02.2023, has held as follows:-

“8. Therefore, I reject the petitioner's demand for constructing the compound wall around the petition mentioned land. However, the petitioner's other requests will have to be accepted. The petition mentioned land shall not be allowed to be used for any political activity. No political or communal organization shall be allowed to use the property in question. If there is any encroachment in violation of the court's order, the jurisdictional police are directed to remove it without notice. The respondent authorities shall maintain the petition mentioned lands exclusively for public purposes and will not allow any private interest to use the same. It is stated that once in a year, children's



WEB COPY

programme is conducted. The children's programme shall be conducted, after getting prior permission from the jurisdictional Revenue Divisional Officer as well as the local police. The jurisdictional police shall stipulate appropriate conditions regarding the manner in which the children's programme can be conducted. If any such condition is stipulated, the organisers of the programme will have to scrupulously adhere to them. The children's programme can be conducted only by the village elders. No political organisation or communal organization can be allowed to organise the programme.”

13. In view of the above said order, the said land is not used for any other purposes except to conduct the programmes for children. In view of the serious communal dispute among two groups, which led to murder, this Court is of the view that as a matter of right, a mandamus cannot be issued permitting the petitioner to conduct the festival in the disputed area.

14. The right to worship God is the right guaranteed under the Constitution. At the same time, the rights of others also cannot be ignored altogether. Under the pretext of fundamental right, the rights of the others cannot be infringed. It is also stated across the bar that due to some hatredness inserted by the political parties and other communal associations, several people migrated to other places. It also affected the education of the children of both communities. It is very unfortunate to see that even after 75 years of the independence, the people of the village continue to remain with communal



colour and instigated by outside agencies like political organization and communal forces.

15. When the writ petition came up for admission, this Court also directed both the parties to amicably settle the dispute by arriving at a compromise. However, the same has not fructified to any fruitful results.

16. In such view of the matter, as the people of the village are still acting according to the tunes of some political and communal associates, this Court is of the view that the rights of the innocent citizens are paramount important rather than the right to have festivals. Hence, this Court is not inclined to direct the authorities to consider the claim made by the petitioner. It is for the authorities to decide whether the petitioner shall be granted with permission sought by him or not by taking note of the ground reality.

17. In view of the above deliberations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
ta



To

WEB COPY

- 1.The District Collector,
Collectorate, Tenkasi District.
- 2.The Revenue Divisional Officer,
RDO's Office, Sankarankovil,
Tenkasi District.
- 3.The Inspector of Police,
Thiruvengadam Police Station,
Thiruvengadam, Tenkasi District.



W.P.(MD)No.17918 of 2021



WEB COPY



W.P.(MD)No.17918 of 2024

N.SATHISH KUMAR, J.

ta

W.P.(MD)No.17918 of 2024

12.08.2024