



W.P.Nos.19128 and 21769 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.19128 and 21769 of 2023
and
W.M.P.Nos.18385 and 21115 of 2023

W.P.No.19128 of 2023

G.Ganthi

... Petitioner

Vs

1. The Revenue Divisional Officer,
Villupuram District,
Villupuram.

2. The Inspector of Police,
Valavanur Police Station,
Pondy Road,
Villupuram – 605108.

... Respondents

Writ Petition filed under Article 226 of the Constitution praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings issued by the first respondent herein under Section 145 of Cr.P.C in Na.Ka.A1/1211/2023 dated 07.06.2023 and quash the same.

For Petitioner : Mr.G.Karthikeyan,



WEB COPY



W.P.Nos.19128 and 21769 of 2023

Senior Counsel for
Ms.A.Jagadeeswari

For Respondents : Mr.P.Balathandayutham,
Special Government Pleader (for R1)
Mr. K.M.D.Muhilan,
Government Advocate (Crl. Side)
(for R2)

W.P.No.21769 of 2023

Raji

Vs

... Petitioner

1. Executive Magistrate/The Revenue Divisional Officer,
Villupuram District,
Villupuram.
2. The Inspector of Police,
Valavanur Police Station,
Pondy Road,
Villupuram – 605 108.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Villupuram,
Villupuram District.
4. The Executive Officer,
Arulmigu Draupathi Amman Temple,
Draupathi Amman Koil Street,
Melpathy,
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution praying to



W.P.Nos.19128 and 21769 of 2023

issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings issued by the first respondent in Na.Ka.No.A1/1211/2023 dated 07.06.2023 and quash the same.

For Petitioner : Mr. K.Balu
For Respondents : Mr.P.Balathandayutham,
Special Government Pleader (for R1)
Mr. K.M.D.Muhilan,
Government Advocate (Crl. Side)
(for R2)
Mr.K.Karthikeyan,
Government Advocate (HR & CE)
(for R3 & R4)

COMMON ORDER

Both the Writ Petitions have been filed challenging the very same order passed by the first respondent under Section 145 of Cr.P.C., dated 07.06.2023 and as such, this Court passed a common order.

2. The Temple, viz., Arulmigu Draupathi Amman Thirukovil (hereinafter referred to as 'the Temple' for short), is situated at Melpathi Village, Villupuram Taluk and District. The case of the petitioners is that the Temple is dedicated to the worship of a particular community and it was established and constructed by the members belonging to that particular community. It is situated in R.S.No.65/2 and R.S.65/3 of Melpathi Village,



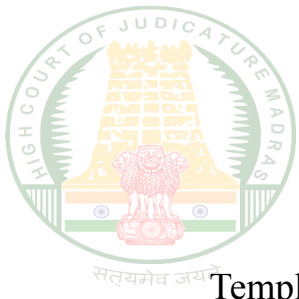
W.P.Nos.19128 and 21769 of 2023

WEB COPY

Villupuram District, owned by the people of that particular community.

Therefore, it is a denominational Temple and its administrators, viz., the Trustees, are elected by the people of that particular community. It is an ancient Temple and has been governed by the people of that particular community for more than 100 years. The daily Poojas and festivals on special occasions are conducted by the people of that particular community and the contributions will be collected from the said community people. Further, the deity of the Temple is also considered to be the family deity of that particular community.

3. While that being so, during the festival called "Theemithi Thiruvizha", which was held on 07.04.2023, a dispute arose between two community people, resulting in the registration of FIRs in Crime Nos. 178 and 179 of 2023 for the offences under Sections 147, 148, 294(b), 341, 323, 324, 354, 153A(2), 504, and 506(1) of IPC and Sections 3(1)(r), 3(1)(s), 3(1)(w)(I), 3(1)(za)(C), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989 and for the offences under Sections 147, 354, 354A, 509, 153A(2), and 506(i) of IPC and Section 4 of the TNPHW, 2002, respectively. However, according to the petitioner, the said incidents are in no way connected to the



W.P.Nos.19128 and 21769 of 2023

WEB COPY

Temple festival and it is an individual dispute. However, the fourth respondent issued a notice, thereby directing the Trustees of the Temple to hand over the charge of the Temple, relying upon the order passed by the third respondent dated 11.04.2023, thereby appointing the fourth respondent as a fit person for the Temple as contemplated under Section 49(1) of the Hindu Religious and Charitable Endowments Act. However, it was set aside by this Court in W.P.No.13531 of 2023 on the ground that no notice was served to the existing Trustees. Pursuant to the registration of the First Information Report, no one is allowed to enter the Temple, since there is a communal dispute.

4. Therefore, the complaint was referred for initiation of proceedings under Section 145 of Cr.P.C. before the first respondent. The first respondent conducted an enquiry between A party and B party, in which both the petitioners belong to A party and passed an order on 07.06.2023. The first respondent concluded that there is a law and order issue since there is a dispute between two community people. Pursuant to the same, there are five criminal cases registered in Crime Nos. 177, 178, 179, 237, and 238 of 2023, while celebrating the festival for the Temple. Therefore, until further



W.P.Nos.19128 and 21769 of 2023

WEB COPY

orders, no one is permitted to enter the Temple, failing which action will be taken against the violators.

5. The learned counsel for the respective petitioners would submit that the Temple is a denominational one and belongs to a particular community, though all general public are allowed to worship the deity of the Temple. Further, the contention of the petitioners is that the daily Poojas are to be conducted for the Temple, since it involves the sentiment/belief of all the local villagers. Considering the above contention, this Court passed an interim order dated 18.03.2024, directing the Joint Commissioner, HR & CE Department to utilize the service of a Pujari who will perform the Poojas for the Temple, and the Temple will be opened only to enable the Pujari to enter into the Temple to perform the daily Poojas. After completion of the daily Poojas, the Temple will remain closed. No one will be permitted to enter into the Temple to worship the deity until further orders. Further, the Court directed the second respondent to take appropriate action if any law and order problem arises or if anyone causes violence. As directed by this Court, now the Pujari is conducting daily Poojas, and no public is permitted to enter into the Temple to worship the deity of the Temple.



W.P.Nos.19128 and 21769 of 2023

WEB COPY

6. On a perusal of the status report filed by the second respondent and on the submission made by the learned counsel for the respondents, it reveals that the usual practice of the particular community people allowed the devotees of Adi Dravidars to worship the deity of the Temple on the 7th day of the festival to be conducted during the Tamil month of Panguni in every year. On the 7th day of the said festival, the deity will be kept outside the Temple for worship by the Adi Dravidars as a customary practice. While this was so, on 07.04.2023, an Adi Dravidar community person went inside the Temple and worshiped the deity. This was questioned by other community people and he was also assaulted, which resulted in the registration of the First Information Report in Crime No. 178 of 2023 on the file of the Inspector of Police, Valavanur Police Station, Villupuram District.

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

8. In turn, the particular community people lodged a complaint alleging that the other community person misbehaved with a group of

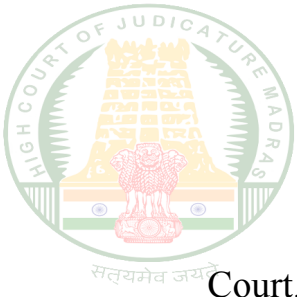


W.P.Nos.19128 and 21769 of 2023

WEB COPY

women who were present in the Temple during the festival, which resulted in the registration of the First Information Report in Crime No. 179 of 2023 on the file of the very same Police Station. Therefore, the people of the Adi Dravidars community conducted a road blockade as their entry into the Temple was denied by the particular community and they submitted a representation to various authorities. Therefore, the first respondent initiated proceedings under Section 145 of Cr.P.C. and passed an order in order to maintain law and order between the two community people. Pursuant to the interim order passed by this Court, now the Pujari is permitted to conduct daily Poojas for the Temple and no one is permitted to enter into the Temple for worshipping the deity of the Temple.

9. It is rather unfortunate that, despite the constitutional abolition of any form of untouchability, it still remains and persists in rural areas of the nation. Although temples are seen to be symbols of unity and inclusivity, the denial of rights of temple entry and worship to persons belonging to a particular community still looms large. This discrimination should stop and stop forthwith. The fact that it is still prevailing shocks the conscience of this



W.P.Nos.19128 and 21769 of 2023

WEB COPY

Court. Human beings are to be treated as human beings, and all are same.

Further, the temple is a public place of worship, accessible to all citizens regardless of caste, creed, or social standing. Restricting access to such a place by erecting barricades or locks by private Trustees violates the fundamental right of every individual to practice and propagate their religion, as guaranteed under Article 25 of the Constitution of India. It is a public place of worship of the Hindus; the right of entrance into the temple for purposes of daily Poojas or any other festival is a right that flows from the nature of the institution itself and for the acquisition of such rights, no custom or immemorial usage need be asserted or proved.

10. In this regard, it is useful to refer the judgement of the Hon'ble Supreme Court of India, in *Sri Venkataramana Devaru -vs- State of Mysore* reported in *1954 SCC OnLine SC 25*. The relevant paragraphs are paragraphs 28 and 29 and the same read as follows:-

“28. And lastly, it is argued that whereas Article 25 deals with the rights of individuals, Article 26 protects the rights of denominations, and that as what the appellants



WEB COPY



W.P.Nos.19128 and 21769 of 2023

claim is the right of the Gowda Saraswath Brahmins to exclude those who do not belong to that denomination, that would remain unaffected by Article 25(2)(b). This contention ignores the true nature of the right conferred by Article 25(2)(b). That is a right conferred on “all classes and sections of Hindus” to enter into a public temple, and on the unqualified terms of that Article, that right must be available, whether it is sought to be exercised against an individual under Art 25(1) or against a denomination under Article 26(b). The fact is that though Article 25(1) deals with rights of individuals, Article 25(2) is much wider in its contents and has reference to the rights of communities, and controls both Article 25(1) and Article 26(b).

29. The result then is that there are two provisions of equal authority, neither of them being subject to the other. The question is how the apparent conflict between them is to be resolved. The rule of construction is well settled that when there are in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect could be given to both. This is what is known as the rule of harmonious construction. Applying this rule, if the contention of the appellants is to be accepted, then Article 25(2)(b) will become wholly nugatory in its application to denominational temples, though, as stated above, the language of that Article includes them. On the



WEB COPY



W.P.Nos.19128 and 21769 of 2023

other hand, if the contention of the respondents is accepted, then full effect can be given to Article 26(b) in all matters of religion, subject only to this that as regards one aspect of them, entry into a temple for worship, the rights declared under Article 25(2)(b) will prevail. While, in the former case, Article 25(2)(b) will be put wholly out of operation, in the latter, effect can be given to both that provision and Article 26(b). We must accordingly hold that Article 26(b) must be read subject to Article 25(2)(b).”

11. The main goal of our Constitution is a casteless society. Further, it divides society to prevent discrimination and violence. In this regard, it is useful to refer to the judgment of the Hon'ble Supreme Court of India in ***Ashoka Kumar Thakur -Vs- Union of India***, reported in **(2008) 6 SCC 1**, which held that the ultimate object is to see that no person gets discriminated against because of his caste. If that be so, it would not be right to say that the ultimate objective is not a casteless society. Further, it was held that the ultimate aim is a casteless and classless society, in line with the dream of the Constitution-framers, that has to be achieved. It needs no emphasis that, if ultimately and indisputably, the constitutional goal is a casteless and classless society. Further, it was held that, when the object is



W.P.Nos.19128 and 21769 of 2023

WEB COPY

the elimination of castes and not their perpetuation, to achieve the goal of a casteless society and a society free from discrimination of caste, judicial review within the permissible limits is not ruled out.

12. In this regard, it is useful to refer the judgement of the this Court, in ***A.Rajendran -vs- The Joint Commissioner (W.P.No.3838 of 2025 order dated 05.02.2025)***. The relevant paragraphs are paragraphs 4 to 7 and the same read as follows:-

“4. Caste is a social evil. Casteless society is our constitutional goal. Anything towards perpetuation of caste can never be considered by any Court of law. The reason is very simple. Firstly, it is not decided by what one learns or does in life. It is by birth. Thus, it hits at the very basic ethos of the society that all men are born equal. (gpwgb; ghfF; k; vy;yh caph;fF; k;) Further, it divides society, leads to discrimination and violence and is against growth. The same has been emphatically laid down by the Hon’ble Supreme Court of India, in Ashoka Kumar Thakur -Vs- Union Of India 1 After noting down the contention that the Constitution does not think of a casteless society, in paragraph No.238, it was held that "the ultimate object is to see that no person gets discriminated against because of his



WEB COPY



W.P.Nos.19128 and 21769 of 2023

caste. If that be so, it would not be right to say that the ultimate objective is not the casteless society." In paragraph No.298, it is held that "ultimate aim is a casteless and classless society in line with the dream of the Constitution-framers that has to be chewed out." In paragraph No.310, it is held that "It needs no emphasis that if ultimately and indisputably the constitutional goal is the casteless and classless society...." In paragraph No.328, it is stated that "when the object is elimination of castes and not perpetuation to achieve the goal of casteless society and a society free from discrimination of caste, judicial review within the permissible limits is not ruled out." In paragraph No.363, it is mentioned that "our leaders have always and unanimously proclaimed with one voice that our constitutional goal is to establish a casteless and classless society." In paragraph No.605, it has been held "...caste matters and will continue to matter as long as we divide society along caste lines. Caste-based discrimination remains. Violence between castes occurs. Caste politics rages on. Where casteism is present, the goal of achieving a casteless society must never be forgotten. Any legislation to the contrary should be discarded." In paragraph No.666, it is mentioned that "caste has divided this country for ages. It has hampered its growth. To have a casteless society will be the resolution of a noble dream." Thus, if at all it can only



WEB COPY



W.P.Nos.19128 and 21769 of 2023

be taken into account, it can only be to provide reservation and positive discrimination to uplift the downtrodden/backward classes.

5. Despite seventy-five years of our Constitution, sections of the society are yet to shed this unwanted baggage. The very operation of the Constitutional scheme is frustrated, and the caste system leads to the perversion of the goals and values of the society. Thus, any prayer made which is in the nature of or which has the effect of perpetuation of caste will not only be unconstitutional but would be opposed to public policy. The time has come for this Court to emphatically declare so.

6. Dr. B.R. Ambedkar, in his famous speech on 25th November, 1949, on conclusion of deliberations of the Constituent Assembly, stated;

“In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are anti- national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity, equality and liberty will be



W.P.Nos.19128 and 21769 of 2023

WEB COPY

no deeper than coats of paint”.

Thus, it would be violence to the Constitution to entertain prayers on caste basis and exercise the jurisdiction under Article 226 of the Constitution of India.

7. In this case, we are in the realm of prayer relating to the temple practice. In this context, nobody can understand our religions better than Swamy Vivekananda. If religion and worship are for the benefit of the soul, he said, “The soul has neither sex nor caste nor imperfection”

13. Thus, it is clear that the object of our Constitution is elimination of castes and not their perpetuation. Our Constitution's goal is to establish a casteless and classless society. While this is so, not permitting the particular community people to enter the Temple is nothing but discrimination among the Hindus, and it is against our constitutional goal. Therefore, when there is a dispute between two communities while conducting daily Poojas and festivals at the Temple, it is the duty of the State to maintain law and order if there is any communal clash during the festivals. For the said reasons, the Temple cannot be shut down, since it



W.P.Nos.19128 and 21769 of 2023

WEB COPY

involves the sentiment/beliefs of the general public.

14. In this regard, the Hon'ble Supreme Court of India in the case of ***Padma Baraik vs Union of India (W.P (Civil) No.1195 of 2021, order dated 13.12.2021)*** while dealing with the issue of fundamental rights of the citizens of the country to live peacefully in a society free from crime, held that there can be no doubt that the State is under a duty to take requisite steps to protect the environment, save nature and natural resources, prevent and punish crime, and ensure that the right of citizens to live with dignity is not violated. These being the inherent duties, such duties necessarily have to be complied with. No specific order is required by the Court. Therefore, it is the duty of the state to protect the general public from any law and order issue.

15. Further, the Temple is situated at Melpathi Village, Villupuram Taluk and District, comprised in R.S.No.65/2, measuring an extent of 0.1952 sq.mts., and R.S.No.65/3, measuring an extent of 0.0737 sq.mts., (total 0.2689 sq.mts., and it is classified as Natham Government Poramboke. Therefore, no one can claim ownership of the Temple. As directed by the



W.P.Nos.19128 and 21769 of 2023

WEB COPY

interim order passed by this Court, the services of a Pujari are now being utilized to perform daily Poojas for the Temple.

16. In view of the above, the order impugned cannot be sustained and is liable to be quashed. Accordingly, the impugned order in Na.Ka.A1/1211/2023, dated 07.06.2023, is hereby quashed. The third and fourth respondents are directed to permit all general public, irrespective of their community, to worship the deity of the Temple. If any law and order issue arises between any community people, the second respondent is directed to take stringent action against the person who committed the offence, in accordance with law.

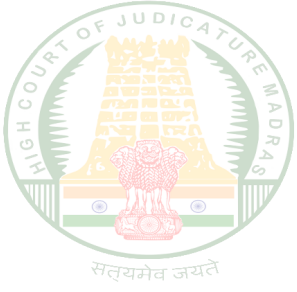
17. With the above directions, these Writ Petitions are allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

20.02.2025

Index: Yes/No
Neutral Citation/Yes/No
kv

To

17/19



W.P.Nos.19128 and 21769 of 2023

WEB COPY

1. The Executive Magistrate/
The Revenue Divisional Officer,
Villupuram District,
Villupuram.
2. The Inspector of Police,
Valavanur Police Station,
Pondy Road,
Villupuram – 605 108.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Villupuram, Villupuram District.
4. The Executive Officer,
Arulmigu Draupathi Amman Temple,
Draupathi Amman Koil Street,
Melpathy,
Villupuram District.



WEB COPY



W.P.Nos.19128 and 21769 of 2023

G.K.ILANTHIRAIYAN, J.

kv

W.P.Nos.19128 and 21769 of 2023

20.02.2025