

Kathiresan Vs. 1. the District Superintendent of Police

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Court : Chennai

Decided On : Nov-25-2014

Judge : V.Ramasubramanian

Appellant : Kathiresan

Respondent : 1. the District Superintendent of Police

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT Dated:

25. 11/2014 CORAM THE HONOURABLE MR. JUSTICE M.VENUGOPAL Writ Petition (MD) No.18176 of 2014 Kathiresan ... Petitioner Vs 1. The District Superintendent of Police Virudhunagar District Virudhunagar.

2. The Inspector of Police A.Mukkulam Police Station Virudhunagar District.

3. K. Pandi 4. Sundarapandian ... Respondents (R.R.3 and 4 were impleaded as per order dated 18/11/2014 passed in M.P.(MD) No.1 of 2014 in W.P.(MD) No.18176 of 2014 by MVJ) Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 and 2 to provide police protection to us for celebrating temple festivals of Sri Kaveri Iyyanar Temple, Sri Pandi Vinayahar Temple and Sri Alahu Natchiyamman Temple situate at V.Karisalkulam, Thirucuzhi Taluk, Virudhunagar District on 18/11/2014 and 2/12/2014. !For Petitioner ... Mr.R.Murugappan ^For Respondents ... Mr.V.Muruganandam Additional Government Pleader for R.R.1 and 2.

Mr.J.Anandakumar for R.3 and 4. Date of Reserving Orders - 18/11/2014) - - - - - :

ORDER

Heard both sides.

2. According to the Petitioner, there are three temples in their Village called Sri Pandi Vinayahar temple, Sri Kaveri Aiyanar Temple and Sri Alahu Natchi Amman Temple. Every year, in the month of September to October, they are celebrating Pongal festival of these three temples. However, this year, one Sundarapandi and his family members demanded to celebrate Pongal festival of these three temples. He and other Villagers had decided to adjourn festival of these three temples to 18/11/2014 and 2/12/2014.

3. It is the stand of the petitioner that he filed earlier W.P.(MD) No.16388 of 2014 with a prayer to initiate proceedings under Section 107 of Cr.P.C., in their Village, but the said Writ Petition was dismissed on 25/10/2014 by citing another order passed in W.P.(MD) No.15381 of 2014 dated 16/9/2014. Further, in terms of the order passed in W.P.(MD) No.15381 of 2014, a Peace Committee Meeting was convened by Tahsildar, Thiruchuzhi dated 20/9/2014. In that Peace Meeting, the person who filed the Writ Petition was only allowed to worship the God.

4. The Learned Counsel for the Petitioner submits that now the Village people feel that due to non-celebration of the temple's festival, some evil thing is going to happen in their Village and they had decided to celebrate festivals of their Village on 18/11/2014 and 2/12/2014. In respect of these festivals, he and other Villagers, sent a representation to the Respondents 1 and 2 on 3/11/2014 seeking their protection to celebrate Pongal festival on 18/11/2014 and 2/12/2014 respectively. Till now, the Respondents 1 and 2 have not considered their representations. The Respondents 1 and 2 had an obligation to give Police protection to them to celebrate festivals for their Village temples on 18/11/2014 and 2/12/2014.

5. Per contra, it is the submission of the Learned Additional Government Pleader for the Respondents 1 and 2 that the three temples did not belong to the Villagers and it is not a public temple. In fact, these three temples belong to Pitchai Devar Vagaiyara and Irulandi Thevar Vagaiyara i.e, private temples and they are located

in private land in S.F.No.21/11 A and 21/18 and also, the patta land do stand in the name of one Irulandi Thevar and Mahalingam.

6. The Learned Additional Government Pleader for the Respondents 1 and 2 brings it to the notice of this Court that the Petitioner belongs to one Maranadu Karuppanasamy Temple and he is working as Poojari in the Temple. As such he is no way connected with the temples viz., Sri Kaveri Iyyanar Temple, Sri Pandi Vinayagar Temple and Sri Azhagu Natchiyamman Temple which are not public Temples.

7. The Learned Additional Government Pleader for the Respondents 1 and 2 proceeds to contend that the Petitioner's Brother-in-Law, viz., one Ganesan, on an earlier occasion filed W.P.(MD) No.15381 of 2014 praying for passing of an order by this Court in directing the Respondents viz., Revenue Officials and Police Officials to consider his representation dated 8/9/2014 to conduct the Peace Meeting and thereby allow him and his family members and other Villagers to participate in all the ceremonies of Pongal festival and Kuthirai Edduppu at (1) Sri Pandivinayagar Kovil (2) Kaveri Iyyanar Kovil and (3) Azhagunatchi Amman Kovil at K.Karisalkulam, Thiruchuli Taluk, Virudhunagar District scheduled to be conducted in the month of Purattasi 1 to 10 i.e., 17/9/2014 to 26/9/2014 and this Court on 16/9/2014 had passed the following order:- ?4. Therefore, the relief sought for by the petitioner stands rejected and the writ petition is dismissed. However, the petitioner is entitled to worship in the temple, which should not be prevented and if there is any attempt to prevent the right of worship alone, then the petitioner shall approach the respondent Police for proper remedy or orders.?.

8. The Learned Additional Government Pleader for the Respondents 1 and 2 submits that on 20/9/2014, the Revenue Divisional Officer had conducted Peace Meeting and both the rival parties were present in the said Meeting and as per the order dated 16/9/2014 in W.P.(MD) No.15381 of 2014, one Sundarapandiyan Vagaiyara had expressed their willingness and agreed that they would not prevent the said Ganesan to worship in those three temples.

9. It is further represented on behalf of the Respondents that in regard to the subject matter of temples, Pitchai Thevar Vagaiyara, Irulandi Thevar Vagaiyara

and one K.Pandi filed W.P.(MD) No.15860 of 2014 before this Court praying for passing of an order by this Court in directing the Respondents to grant Police protection for the peaceful conduct of Kaveri Iyyanar Kovil and Azhagunatchi Amman Temple scheduled to be held on 22/9/2014 to 30/9/2014 at V.Karisalkulam Village, Thiruchuzhi Taluk, Virudhunagar District. Ultimately, on 23/9/2014, this Court in paragraph Nos.4 and 5 had observed the following and disposed of the Writ Petition. ¶.4. The learned Additional Government Pleader on instructions from the respondent Police submitted that the Revenue Divisional Officer, Aruppukkottai conducted a peace committee meeting, in which a consensus protection for the temple festival.

5. In view of the stand taken by the respondent Police, placing the same on record, the writ petition is disposed of. No costs.¶.

10. Added further, the Learned Additional Government Pleader for the Respondents 1 and 2 proceeds to bring it to the notice of this Court that the Petitioner filed W.P.(MD) No.16388 of 2014 before this Court praying for passing of an order by this Court in directing the Respondents 1 to 6 to restore peace in his Village of V.Karisalkulam, Virudhunagar District and this Court on 25/9/2014 in paragraph Nos.3 to 5 had observed the following:- ¶.3. It is brought to the notice of this Court by the learned Government Advocate that in respect of the same relief, a close relative of the petitioner herein, filed a writ petition in W.P.(MD) No.15381 of 2014 before this Court and this Court, by order dated 16/9/2014, dismissed the said writ petition and observed as follows:- ¶.3. It is seen that the petitioner has stated several festivals, rituals and practices, which are all customary practices, for which no direction can be issued to convene a peace committee meeting and these customary rights have to be established in the manner known to law.

4. Therefore, the relief sought for by the petitioner stands rejected and the writ petition is dismissed. However, the petitioner is entitled to worship in the temple, which should not be prevented and if there is any attempt to prevent the right of worship alone, then the petitioner shall approach the respondent Police for proper remedy or orders. No costs.¶.

4. Further, the learned Government Advocate submitted that after the order was passed in the earlier writ petition, a peace committee was convened on 20/9/2014 and the festival is carried on. Therefore, nothing further remains to be adjudicated in this writ petition.

5. Recording the submission made by the learned Government Advocate, the writ petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.?

11. In effect, the submission of the Learned Additional Government Pleader is that the Petitioner had suppressed the true, real facts of the case and has filed the present Writ Petition intentionally as such the Writ Petition is liable to be dismissed in limine. Also that the land owners of the temples viz., Irulandi, Mahalingam and other parties in the earlier Writ Petition were not added as parties in the present Writ Petition. In any event, the Writ Petition is liable to be dismissed.

12. At this stage, the Learned Counsel for the Respondents 3 and 4 submits that the Writ Petitioner has no right whatsoever to celebrate temple festival and in fact, the temple belong to the impleaded Petitioner/Respondents 3 and 4 and their relatives/pangalis. As such, the Writ Petitioner cannot claim title of 'Amalathukarar' to conduct the festival in issue. Further, there is Urchavam for every year and this year, the said Urchavam was over. Therefore, the request of the Petitioner is tainted with mala fide intention.

13. Proceeding further, the Learned Counsel for the Respondents 3 and 4 contends that chitta and adangal revenue records makes it clear that Temple do stand in the name of Irulandi Thevar who is pangali of the Respondents 3 and 4. Also that the Writ Petitioner is using the similarity of name of the said person in one of their Members created pamphlets as though they are also coming under the Third and Fourth Respondents group.

14. It is to be noted that earlier one K.Ganesan filed W.P.(MD) No.15381 of 2014 against the District Collector, Virudhunagar District and five others before this Court and on 16/9/2014, this Court in paragraph Nos.3 and 4 had observed the following:- ?3. It is seen that the petitioner has stated several festivals, rituals and

practices, which are all customary practices, for which no direction can be issued to convene a peace committee meeting and those customary rights have to be established in the manner known to law.

4. Therefore, the relief sought for by the petitioner stands rejected and the writ petition is dismissed. However, the petitioner is entitled to worship in the temple, which should not be prevented and if there is any attempt to prevent the right of worship alone, then the petitioner shall approach the respondent Police for proper remedy or orders. No costs.?

15. Further, in the proceedings of the Peace Committee Meeting dated 20/9/2014, it was decided that Ganesan, S/o.Karuppaiah when he comes for worship should not be prevented by anyone at the time of conduct of Puratasi Pongal festival and Kuthirai Eduppu function at Sri Pandivinayagar Kovil, Kaveri Iyyanar Kovil and Azhagunatchi Amman Kovil at K.Karisalkulam, Thiruchuli Taluk, Virudhunagar District.

16. It is also represented on behalf of the Respondents 3 and 4 that Ganesan and others participated in the function and that the present Writ Petitioner in W.P.(MD) No.18176 of 2014 is the brother of K.Ganesan, who filed earlier W.P.(MD) No.15381 of 2014 and further that Urchavar was celebrated in Puratasi (September 2014) and in any event, when the present Writ Petitioner is no way connected to the temples in question and in reality when he is a poojari of one Maranadu Karuppanasamy Temple, he has no locus to file the present Writ Petition before this Court.

17. By way of reply, the Learned Counsel for the Petitioner submits that the representation dated 3/11/2014 of V.Karisalkulam Village people addressed to the First Respondent/District Superintendent of Police, Virudhunagar District seeking protection for the conduct of temple festival at the village on 18/11/2014 and 2/12/2014 has not yet been disposed of.

18. Also, it is represented on behalf of the Petitioner that in the proceedings of Peace Committee Meeting dated 20/9/2014, the Tahsildar had stated that the temple is a common Village temple situated at V.Karisalkulam Village, Thiruchuzhi

Taluk, Virudhunagar District.

19. On a careful consideration of rival contentions and in view of the fact that the Petitioner is not connected with the Petition mentioned Temple in any manner and in fact, when he is a poojari of one Maranadu Karuppanasamy Temple, then this Court comes to an inevitable conclusion that he has no right to file the present Writ Petition before this Court, so as to claim right for the conduct of festival in the temples in question. Moreover, when Chitta and adangal revenue records make it clear that the temple stands in the name of Irulandi Thevar (Pangali of the Respondents 3 and 4), the Petitioner cannot by any means take advantage of the observations of the Tahsildar in the Peace Meeting proceedings that the Temples in question are common Village Temple. In this connection, this Court very pertinently points out that the revenue entries in Chitta and adangal do have primacy and supremacy over any other observation made by the revenue authority which is incorrect based on the facts and circumstances which float on the surface. Looking at from any point of view, the Writ Petition filed by the Petitioner sans merit and it fails.

20. In the result, the Writ Petition is dismissed. No costs. 25/11/2014 mvs. Index: Yes/No website: yes/No M.VENUGOPAL,J mvs. To 1. The District Superintendent of Police Virudhunagar District Virudhunagar.

2. The Inspector of Police A.Mukkulam Police Station Virudhunagar District. Pre-delivery order in W.P.(MD) No.18176 of 2014 25/11/2014

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