



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 12.02.2025

DELIVERED ON : 14.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4732 of 2025

S.Yuvaraj

... Petitioner

Vs

1. The Commissioner of Police,
E.V.K.Sampath Salai, Veppery,
Chennai – 600 003.

2. The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to permit the petitioner and other members to grant a permission on 18.02.2025 at 4.00 pm to take out procession with Vel from Egambarashwarar Temple via Rasappa Street, Nainiyappa Street, Pethu Street, Thanga salai to reach Sri MuthuKumarasami Kovil Devasthanam, Rasappa Street, Chennai – 600 003 for worship the Sri MuthuKumarasami Temple situated at Rasappa Street, Chennai – 600 003.

For Petitioner : Mr.G.Mutharasu



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For Respondents : Mr.Hasan Muhamed Jinnah
State Public Prosecutor
assisted by
Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for direction directing the respondents 1 and 2 herein to permit the petitioner and other members to grant a permission on 18.02.2025 at 4.00 pm to take out procession with Vel from Egambarashwarar Temple via Rasappa Street, Nainiyappa Street, Pethu Street, Thanga salai to reach Sri MuthuKumarasami Kovil Devasthanam, Rasappa Street, Chennai – 600 003 for worship the Sri MuthuKumarasami Temple situated at Rasappa Street, Chennai – 600 003.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the petitioner is that he is a devotee of Lord Murugan and he is holding the post of Deputy District President of Bharath Hindu Munnani. A group of Islamic people are claiming Madurai Thiruparankundram mountain as belonging to them and it is claimed as Sikkanthar mountain. They have been continuously creating problem against Hindu Religion, faith and



believe and it is a clear violation of Article 25 of Constitution of India. Further,

Thiruparankundram Murugan temple is historic and religious significant and predominant place in Tamil Sangam works. Therefore, the petitioner and his members intended to take out procession to condemn action of other religion by procession with “Divine Spear” (Vel) to reach the temple called Sri MuthuKumarasami Kovil Devasthanam, Rasappa street, Chennai.

4. The learned counsel for the petitioner would submit that the petitioner submitted a representation, on 29.01.2025 and the same was duly received by the respondents. So far, no order has been passed to permit the petitioner and its members to take out procession to reach their temple on 18.02.2025 at 04.00 pm.

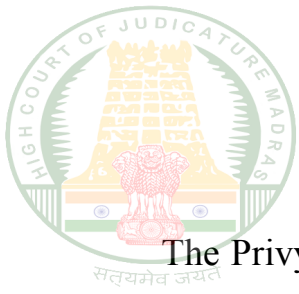
5. A perusal of the synopsis submitted by the respondents and also on the submissions made by Mr.Hasan Muhamed Jinnah, the learned State Public Prosecutor appearing for the respondents revealed that the petitioner submitted a representation to condemn action on the Muslim religion claiming ownership of Madurai Thiruparankundram mountain and also on the issue of animal sacrifice as part of the Kandhuri festival organized by the Dargah.



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6. A perusal of records revealed that the ownership of the said Madurai Thiruparankundram mountain has been decided by the Court till the Privy Council. Originally, a suit was filed in O.S.No.4 of 1920, on the file of the I Additional Subordinate Court, Madura by the Madurai Thirupparankundram etc., devasthanam through receiver, claiming the whole hill, with the exception of certain cultivated and assessed lands and site of the mosque, as temple property. The Mohammedan were the defendants. The said suit was decreed by the Judgment and Decree dated 25.08.1923 against the Government claim and in favour of the temple, except in respect of the Nellitope and the actual site of the mosque with its flagstaff and the flight of steps leading up to it, as the property of the Mohammedan.

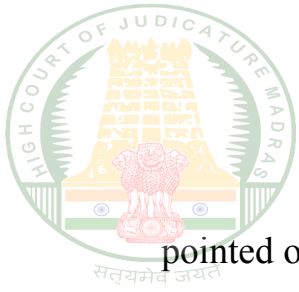
7. Aggrieved by the same, the Mohammedan filed an appeal with the only grievance that the temple did not make the Secretary of the State as a party. After receiving notice and cross-objections, it was ordered that the hill belong to the Government and dismissed the appeal filed by the Mohammedan and allowed the cross-objections filed by the Secretary of the State, thereby dismissed the suit. It was further held that both Hindus and Mohammedan had established certain rights over the hill, but thought it unnecessary to decide what they were. Aggrieved by the same, an appeal was filed before the Privy Council.



The Privy Council, by an order dated 12.05.1931, set aside the order passed by this Court and restored the Judgment and Decree passed by the learned Subordinate Judge dated 25.08.1923.

8. Thus, it is clear that the Devasthanam is the owner and has been in possession of the whole Thiruparankundram hill, except Nellitope including the new Mandapam, the flight of steps above the new Mandapam, whole of the top of the hillock on which the mosque and flag staff stand, owned by the Mohammedans. The Taluq board is entrusted with Giri Veedhi and certain streets in the Giri Veedhi. Therefore, the plaintiff, viz., Madurai Thirupparankundram etc., devasthanam is not entitled to Sannadhi streets but it is entitled to the Giri Veedhi subject to the rights of the President Taluq board, Madurai.

9. While being so, there was dispute between two religions with regard to claiming right over the hill. Pursuant to which, a meeting was convened by the Revenue Divisional Officer, on 30.01.2025. During the meeting, the District Collector had sent a report stating that the practice of animal sacrifice and consumption of the same as a form of worship exists as a tradition and is followed by the Mohammedans. The District Collector also



pointed out that the practice of animal sacrifice in the temples which are located around the Thiruparankundram hill such are Alagar kovil, Arulmigu Pathinetampadi Karupasamy Thirukovil, Arulmigu Pandimuneeshwarar Thirukovil, Malayandi Karupaswamy Thirukovil and other Muniyappan Temples. Further, there is also Jain temples located in the Thiruparankundram hill.

10. On the strength of the said report, the persons who had participated in the meeting such as all the political parties and also general public agreed to follow the same procedures which are prevalent by all the religions. The relevant portion of the resolution as follows:-

“ இந்த தர்காவில் குடும்பமாய் சில மாதங்களுக்கு ஒரு முறையென முறைப்பணி செய்து வருகிறார்கள். இந்த தர்காவிற்கு வருபவர்களின் வேண்டுகோள்கள் நிறைவேற்றப்பட்சத்தில் ஆடு, கோழி பலியிட்டு (கந்துரி) சமைத்து படையல் இட்டு அனைவருக்கும் பரிமாறி சாப்பிடுவார்கள். இவ்வாறு திருப்பரங்குன்றம் நகரை சேர்ந்த இருசமூகத்தினருக்கும் ஏற்கனவே உள்ள வழிபாட்டு நடைமுறைகளை தொடர்ந்து பின்பற்றவும், எங்களிடையே இந்த நடைமுறையில் வெளிநபர்கள் யாரும் தலையிட்டு குழப்பம் ஏற்படுத்துவதை அனுமதிக்கமாட்டோம் எனவும், அனைவரும் ஏகமனதாக தெரிவித்துக் கொள்கிறோம்.”

11. While being so, the General Secretary of Hindu Munnani, Madurai city sought for permission to conduct demonstration, on 04.02.2025 between 03.00 p.m and 9.45 pm near 16 Kal Mandapam in connection with



alleged encroachment of the temple land and in action by the Police against the encroachers. The said representation was rejected by the Assistant Commissioner of Police, by its proceedings dated 02.02.2025. It was challenged before the Madurai Bench of this Court and the Hon'ble Division Bench of Madurai Bench of this Court passed an order on 04.02.2025 in W.P(MD).Nos.3363, 3364 and 3374 of 2025 as follows:-

“ 4. This Court after giving anxious consideration of the rival submissions made on either side is of the view that the right of expression should always be subject to public peace and other restrictions imposed by the Constitution. On the other hand, regarding impugned orders, this Court is of the opinion that the issue could have been handled in a better way. However, fortunately, with the able assistance of the learned Public Prosecutor and the learned Additional Advocate Generals, it has now been by consensus, the issue is substantially diffused and the organizers agreed to carry out their demonstration/protest at Pazhanganatham junction instead of Thirupparankundram temple 16 Kal mandapam, which will avoid inconvenience to the devotees. The respondent Police agreed to provide proper arrangement and protection for the demonstration at Pazhanganatham junction between 5.00 p.m to 6.00 p.m today. The demonstrators shall not carry more than one mega phone and protest must be peaceful. No provocative slogans shall be raised which may cause disturbance to the public peace and tranquility. The agitation should be fully video-graphed. The organizers should permit the Police to video-graph the agitation without any interference or protest. The Writ Petitioners are to be responsible for the peaceful conduct of demonstration as afore-stated.”

12. Accordingly, they were permitted for the demonstration at



Pazhanganatham junction between 05.00 pm and 06.00 pm, on 04.02.2025 and they had conducted demonstration. While demonstration was in progress, they had spoken by provoking general public which intent to cause riot. They also promoted enmity between different groups on the grounds of religion, race, place of birth. Further, they have intent to provoke breach of peace and they made statements conducing to public mischief.

13. Therefore, the Inspector of Police, Subramaniapuram Police Station, Madurai City registered FIR in Crime No.63 of 2025 for the offences punishable under Sections 192, 196(1)(a), 196(1)(b), 352, 353(1)(a) and 353(1)(b) of BNS as against one H.Raja and it is pending for investigation. Another FIR was also registered in Crime No.60 of 2025 for the offences under Sections 223, 292 of BNS and Section 3(a) of Tamil Nadu Town Nuisance Act.

14. While being so, now, the petitioner sought for permission to conduct a procession to Sri MuthuKumarasami Kovil Devasthanam, Rasappa Street, Chennai by holding “Divine Spear” (Vel). The streets through which the procession to be proceeded are situated in the heart of commercial area of Madras. Its width is also very small and there are Humpty numbers of vehicles passing through the said streets. Those streets are meant for wholesale business



of hardware materials, paints etc., and the people are coming from entire Tamil Nadu for purchase. These locations are completely different to those in Madurai. The entire commercial activities occurs on daily basis in those streets. That apart, there are schools and shops. All the religion and community people are doing their business in the said streets. In fact, this Court had given option to choose some other alternate place to conduct procession, but the petitioner did not accept the same. The learned State Public Prosecutor vehemently objected to even allowing procession in an alternate place, since already the rights of all religions had been declared by Privy Council and the entire issue has been settled between the parties before the revenue authorities. If a particular religion is allowed to conduct a procession that too by carrying the “Divine Spear” (Vel) and singing of their devotional songs, it would affect communal harmony prevalent in that area. Though the constitution enshrines Freedom of Speech and Expression under Article 19(1)(a) of Constitution of India, it cannot be misused by the protesters by a particular religion people by endangering Sovereignty, Unity and Integrity of our Country.

15. During demonstration at Madurai, already two cases have been registered on the allegation that wantonly giving provocation with an intent to cause riot. They also promoted enmity between different groups, on the ground



of religion and race by committing an act which is prejudicial to the maintenance of harmony between different religion which disturbs the public tranquility.

16. In fact, for the incident happened in Thiruparankundram hill, it has already been sought out between all the religions by passing a resolution before the Revenue Divisional Officer. The said resolution was also endorsed by the District Collector, Madurai. Therefore, there is absolutely no need to conduct any procession to condemn the Thiruparankundram hill incident and it will once again provoke other religion people and it will provoke breach of peace.

17. Therefore, the respondents shall not permit any form of protest that disrupts public peace and harmony. The respondents have to take necessary measures to ease religious tensions and restore the previously prevailing order and harmony.

18. So far, Hindu, Muslim and Jain have cohabited the hill peacefully, respecting the wishes of each other. In fact, the Unity in Diversity is the strength of our nation and the Government has to maintain harmony among all the



communities and religion. Therefore, the Government shall ensure that religious sentiments and beliefs of any community will not be harmed in any manner and shall not allow anybody to affect the peace and harmony.

19. Therefore, the representation submitted by the petitioner to grant a permission to the petitioner to take out procession with “Vel” on 18.02.2025 at 04.00 pm from Egambarashwarar Temple via Rasappa Street, Nainiyappa Street, Pethu Street, Thanga salai to reach Sri MuthuKumarasami Kovil Devasthanam, Rasappa Street, Chennai – 600 003 for worship the Sri MuthuKumarasami Temple situated at Rasappa Street, Chennai – 600 003 cannot be granted and the writ petition is devoid of merits and is liable to be dismissed. However, the petitioner and other devotees are always permitted to worship the deity at Sri MuthuKumarasami Kovil Devasthanam, Rasappa Street, Chennai and no one can restrain them to worship the deity.

20. Accordingly, this Writ Petition petition is dismissed. No costs.

14.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order



W.P.No.4732 of 2025



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To

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E.V.K.Sampath Salai, Veppery,
Chennai – 600 003.
2. The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.

G.K.ILANTHIRAIYAN. J,



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VERDICTUM.IN



W.P.No.4732 of 2025

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Pre-delivery order made in

W.P.No.4732 of 2025

14.02.2025