
(2023) 02 KL CK 0201

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5718 Of 2023

Anoop S. Ayyappan

APPELLANT

Vs

Travancore Devaswom Board

RESPONDENT

Date of Decision : 20-02-2023

Acts Referred:

Constitution of India, 1950 — Article 226
High Court of Kerala, 1971 — Rule 148

Citation : (2023) 02 KL CK 0201

Hon'ble Judges : Anil K. Narendran, J;P.G. Ajithkumar, J

Bench : Division Bench

Advocate : Sijo Pathaparambil Joseph, G.Biju

Final Decision : Dismissed

Judgement

Anil K.Narendran, J.

1. The petitioners have filed this writ petition under Article 226 of the Constitution of India seeking an order directing the 3rd respondent Devaswom Commissioner to pass orders on Ext.P5 representation dated 31.01.2023 made by them seeking permission to perform the ritual of Nayattuveli during the annual festival of Erumely Sree Dharmasastha Temple, for the year 2023, which is a temple under the management of the 1st respondent Travancore Devaswom Board.

2. In the writ petition, it is alleged that, the 1st petitioner was refrained from performing the ritual Nayattuveli in the annual festival of Erumely Sree Dharmasastha Temple, for the year 2022, based on a complaint made by an organisation, i.e., 'Sree Sabareesha Seva Samithi'. The 1st petitioner obtained a copy of the complaint dated 13.02.2022 made by the President of Sree Sabareesha Seva Samithi, under the Right to Information Act, 2005, which is enclosed along with Ext.P4 reply dated 09.04.2022 obtained under the provisions of the said Act. In the synopsis of this writ petition, it is stated that, based on a

complaint preferred by a paper organisation, as evidenced by Ext.P4 reply under the Right to Information Act, the petitioners are refrained from performing Nayattuveli in Erumely Sree Dharmasastha Temple.

3. Sree Sabareesha Seva Samithi, which made a complaint dated 13.02.2022 against the petitioners, is not made a party to this writ petition, though the statement of facts and synopsis of the writ petition contains specific allegations against that Samithi.

4. Rule 148 of the Rules of the High Court of Kerala, 1971, deals with addition of parties. As per Rule 148, all persons directly affected shall be made parties to the petition. Where such persons are numerous, one or more of them may, with the permission of the Court on application made for the purpose, be impleaded on behalf of or for the benefit of all persons so affected; but notice of the original petition shall, on admission, be given to all such persons either by personal service or by public advertisement as the Court in each case may direct.

5. When the writ petition contains allegations against Sree Sabareesha Seva Samithi, the petitioners ought to have impleaded the said Samithi as a respondent in this writ petition, so as to enable them to answer those allegations. The averments in the writ petition are to the effect that it is based on the complaint made by Sree Sabareesha Seva Samithi that the petitioners are refrained from performing Nayattuveli in the annual festival of Erumely Sree Dharmasastha Temple. Therefore, the petitioners cannot maintain this writ petition under Article 226 of the Constitution of India, without the said Samithi in the party array.

In the result, this writ petition is dismissed on the ground of non-joinder of necessary party; however, without prejudice to the right of the petitioners to file a fresh writ petition with proper pleadings and necessary parties in the party array.