

(2015) 03 MAD CK 0367

In the Madras High Court

Case No : Writ Petition (MD) No. 11807 of 2012 and M.P.(MD) Nos. 1 to 3 of 2012

Ganesan

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 31-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107

Citation : (2015) 03 MAD CK 0367

Hon'ble Judges : V.M. Velumani, J

Bench : Single Bench

Advocate : R. Murugan, for the Appellant; M. Murugan, Government Advocate, Advocates for the Respondent

Final Decision : Dismissed

Judgement

V.M. Velumani, J.

1. This Writ Petition has been filed to direct the respondents 1 to 4 to take immediate steps to forbear the construction of Mariamman Temple by one of the groups under the leadership of the respondents 5 and 6 excommunicating 22 families in Survey No. 489/1, Government Natham Poramboke Land situated at Siruvayal Village, Paramakudi Taluk, Ramanathapuram District.

2. The petitioner is an agriculturist and his Village consist totally 70 families. According to the petitioner, originally two families were excommunicated during the year 2009. Subsequently, 22 families were excommunicated and seven families including the petitioner's family were driven out of his Village and there exists permanent and perennial enmity between two groups for more than two decades.

3. According to the petitioner, 22 families are ready and willing to co-operate for construction of Mariamman Temple in his Village in the Government Natham poramboke land in Survey No. 489/1, after obtaining permission from the

competent authority. Respondents 5 and 6 along with their Henchman are taking serious efforts to construct the Mariamman Temple of their group excluding 22 families. They have collected contribution of funds from their group excluding 22 families. A representation dated 16.08.2012 was sent to the respondents 1 and 2 and other officials by speed post and Telegrams were also sent on 24.08.2012 to the respondents 1, 2 and 4 and the Home Secretary, Chief Minister's Special Cell. No action was taken either to stop the construction or to unite all the people for the common cause for construction of temple for providing access to the proposed Mariamman Temple.

4. The following cases were registered in connection with the persisting dispute between the two groups:

In addition to the above, proceedings under Section 107 Cr.P.C. are also pending before the third respondent.

5. According to the petitioner, the construction of Mariamman Temple by one of the groups will lead to disturbance of public peace and tranquillity and there may not be any possibility of re-union of two groups at any point of time in future. The petitioner's father viz., S. Sivasankaran obtained an information under the Right to Information Act to the effect that no permission was granted for construction of Mariamman Temple. Therefore, the petitioner has filed the present writ petition for the relief stated supra.

6. The fourth respondent has filed counter affidavit. It is stated that the Temple is situated at Survey No. 481/1, a Government Natham poramboke land, Siruvayal Village. There is a dispute between the two groups in the Village. There are complaints and counter complaints by both the groups. However, the police have registered FIR in Crime Nos. 80/2009, 117/2009 and 23/2010. Even after registering the FIR, the police and revenue officials convened a peace committee meeting headed by the fourth respondent on 14.05.2010, wherein both the parties did not agree with the decision of the meeting. However, the police officials have initiated a proceeding against 19 persons from both the groups under Section 107 Cr.P.C. in Crime Nos. 84 and 85 of 2010, on 20.07.2010.

7. It is further stated that the parties living in harmony and no extradition or excommunication had taken place as alleged by the petitioner. The petitioner and other persons were involved in a murder case in Crime Nos. 117 of 2009 and 23 of 2010. Those persons alone left from the Village without any force from the other rival group of the Villagers. As per the interim order passed by this Court, the fourth respondent vide proceedings in Na.Ka. No. A2/20515/2012, dated 10.09.2012, stopped the construction made in Survey No. 489/1, to maintain peace among the Villagers.

8. Again, the fourth respondent has conducted a Peace Committee Meeting on 17.03.2015 after issuing Pamphlets in the Village. The petitioner, one Balamurugan and other Village people were participated in the meeting. In the Peace Committee Meeting, the petitioner has stated that he should be permitted

to contribute amounts for renovation and celebrating the Temple festival among the Villagers. The petitioner has not raised any dispute with regard to excommunication in the Peace Committee Meeting held on 17.03.2015 and all the Villagers were signed in the Peace Committee Meeting stating that they are living peacefully without having any excommunication.

9. It is also stated that the situation is being closely watched by both the revenue as well as the police officials and law and order will be maintained in the Village. Therefore, he prayed for dismissal of the writ petition.

10. The fifth respondent filed counter affidavit for himself and on behalf of the sixth respondent. The fifth respondent has denied the allegation that he is a member of the Temple Committee. The sixth respondent alone is a member of the Temple Committee. The Mariamman Temple is located at Survey No. 489/1, Government Natham Poramboke Land, Siruvayal Village from time immemorial and all the Villagers are used to worship in the Temple for years together. There is no division among the Worshippers or Villagers to manage the affairs of the Temple. The Temple Committee members are periodically elected by the Village people by unanimous resolution.

11. The Temple Committee has decided to renovate the Temple and put up a Dome over and above the Deity. All the Villagers generously contributed money for the renovation of the Temple. The decision to renovate the Temple was taken unanimously by the entire Villagers. The petitioner is trying to stall the work under the pretext of excommunication and law and order problem. The allegation that 22 families were excommunicated was denied.

12. According to the respondents 5 and 6, the petitioner is a notorious rowdy and various criminal cases are pending against him. He also involved in a murder case of Murugesan, a local man, and he was arrested and remanded to judicial custody for months together. After being enlarged on bail, the petitioner is torturing the Villagers unnecessarily and committing atrocities against them. He also made an attempt to involve in the affairs of the Temple Committee and attempted to reign over the Temple Committee Members by using muscle powers. But, all the attempts were resisted by the Committee Members. Having failed in his attempt, the petitioner has approached this Court with false allegations. The Criminal Cases in Crime Nos. 80, 119 and 23 of 2009, for the offences of serious nature are pending against him. Those cases are nothing to do with the Mariamman Temple or the Village. It is only against the petitioner and they are the strange incidents unconnected to the Temple. Therefore, they prayed for dismissal of the writ petition.

13. A reading of the affidavit clearly shows that the writ petition is filed for his personal interest. The petitioner has alleged that the respondents 5 and 6 and their Henchman are trying to construct the Mariamman Temple. On the other hand, from the counter affidavit, it is seen that the Temple is in existence for a long time and the Temple is being renovated and Dome only is being

constructed. Even in the Peace Committee Meeting conducted by the revenue and police officials on 17.03.2015, the petitioner has sought permission to contribute amounts for renovation of the Temple and celebrating the Temple festival among the Villagers. He has not raised anything about the excommunication of 22 families in the Village. The petitioner has not approached this Court with clean hands.

14. The petitioner has named certain persons, who are trying to construct the Temple, but they are not made as parties. Further, the petitioner has not impleaded all the Temple Committee Members as party respondents.

15. From the Typed Set of Papers filed by the petitioner, it is seen that the third respondent has initiated proceeding against "A" Party consisting of the petitioner and 18 others and "B" Party. After enquiry, it was found that the petitioner and another group have given false complaint and the petitioner and others are responsible for maintaining peace in that area. An action has been taken against the petitioner and others under Section 107 Cr.P.C. They were called to show cause as to why they should not be ordered to execute a bond for a sum of Rs. 25,000/- each for their good behaviour for six months. From the proceedings of the third respondent and the counter affidavit filed by the fourth respondent, it is seen that the petitioner and others are living in the Village. This falsifies the averments of the petitioner that seven families including the petitioner's family were driven out of the Village.

16. From the facts stated above, I am of the view that the petitioner has initiated the present writ petition with an ulterior motive for his personal gain and there is no evidence that 22 families were excommunicated and seven families were driven out from the Village or the respondents 5 and 6 are putting up a new Mariamman Temple. Therefore, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.