
(2018) 03 KL CK 0112

In the High Court Of Kerala

Case No : Original Petition (Civil) No. 3390 Of 2017

N.S.S. Karayogam Branch No.1617

APPELLANT

Vs

Kayikkara Chelatt Manchezhan

RESPONDENT

Date of Decision : 07-03-2018

Acts Referred:

Citation : (2018) 03 KL CK 0112

Hon'ble Judges : Alexander Thomas, J

Bench : Single Bench

Advocate : K.S. Hariharaputhran, George Mathew, Sunil Kumar A.G, Sethuram Dharmapalan

Final Decision : Disposed Off

Judgement

1. The main prayer in this Original Petition (Civil) filed under the enabling provisions contained in Art.227 of the Constitution of India is as follows:

"issue an order setting aside Ext.P-4 order and allowing Ext.P-3 application."

2. Heard Sri.K.S.Hariharaputhran, learned counsel appearing for the petitioner and Sri.P.B.Krishnan, learned counsel appearing for the 1st respondent. Though notice has been duly served on the other respondents, those parties have not entered appearance.

3. Sri.K.S.Hariharaputhran, learned counsel appearing for the petitioner submits on the basis of the instructions of his party that the petitioner is not pressing for any other prayers in this O.P(C). and the limited prayer now sought to be made by the petitioner from this Court is only for a direction from this Court to ensure the appointment of an Advocate commissioner for effectuating the smooth and effective conduct of the festival, which is ordinarily held in the second week of March, 2018.

4. It is pointed out that now the petitioner has filed I.A.No.250/2018 before this Court along with accompanying affidavit dated 7.2.2018 and the prayer in the

said I.A. is as follows:

".....to appoint an Advocate Commissioner to conduct annual festival from 13.3.2018 to 21.03.2018 in Kochana Kulangara Devi temple under the Kochanakulangara Devaswom under the leadership and supervision of the petitioner Karayogam pending disposal of Original Petition (c), in the interest of justice"

5. Sri.P.B.Krishnan, learned counsel appearing for the 1st respondent submits on the basis of the instructions of his party that his party is seriously opposing the second component of the prayer made in the said I.A.No.250/2018 and that his party has no objection in the peaceful and well organized conduct of the annual festival of the temple and that the trial court had earlier found in Ext.R-1(c) order dated 17.10.2014 rendered in the O.S. that the petitioner has blatantly violated the conditions imposed while granting permission in the matter of conduct of the previous festival and that the findings in Ext.R1(c) of the trial court have been affirmed by this Court in Ext.R-1(d) judgment dated 18.12.2015 rendered by this Court in O.P(C).No. 2616/2014, etc.

6. Having regard to the facts and circumstances of this case, this Court is certainly of the view that, considering the limitations imposed on the power of this Court under Art.227 of the Constitution of India, it may not be right and proper on the part of this Court to consider the merits of the present plea made by the petitioner in the matter of conduct of the temple festival in question. It is for the petitioner to approach the trial court with an I.A. along with a detailed affidavit laying out his proposals concretely and also giving necessary and sufficient details so as to convince the trial court that none of the untoward incidents that happened in the previous temple festival as referred to in Exts.R-1(c) and R-1(d) orders will occur. The prayer need be considered only if it is for appointment of an Advocate Commissioner for conduct of the ensuing the temple festival. If such an application is filed, then the court below will consider the merits of the plea after hearing both sides and lay down strict terms and conditions to ensure orderly and peaceful conduct of the temple festival. It should be prudently and carefully ensured by the trial court that none of the untoward aspects, which are disclosed in Ext.R-1(c) order and R1(d) judgment of this Court is repeated in this year. The submission of the 1st respondent that they have no objection in the temple festival is conducted under the aegis of the Advocate Commissioner without the participation of the petitioner may also be duly taken into consideration. The petitioner would place reliance Ext.P-8 order dated 2.3.2017 passed by the trial court in respect of the temple festival for the previous year. It is for the trial court to consider all the relevant aspects of the matter and take a final call in the matter. But the most important priority should be to ensure that the none of the untoward incidents as referred to in Exts. R-1 (c) and R-1(d) will even have a remote chance to occur in this year's temple festival.

7. Before parting with this case, it is pertinent to note that a series of directions

have been repeatedly issued by this Court in various judgments in O.P(C)s. filed under Art.227 of the Constitution of India for expeditious conduct and completion of trial, but all those directions appear to have been in vain. In Ext.R-1(a) judgment dated 16.3.2011, rendered by this Court in O.P(C).No.170/2011 this Court had directed that the trial should be completed well before the end of 2011 and that last such direction issued by this Court in Ext. R-1(e) judgment dated 20.6.2016 in O.P(C).No. 1300/2016, wherein it was directed that the suit should be disposed of within three months therefrom. All those directions one after the other issued by this Court have been in vain. The matter cannot be brook any further delay.

8. It is stated by Sri.P.B.Krishnan, learned counsel appearing for the 1st respondent that the evidence of his party (plaintiff) was going on when interim stay was granted by this Court in this O.P(C). The interim order stay granted by this Court will stand vacated. The trial court will proceed with the matter from the stage where it was stopped and will ensure that the trial is completed without any further delay, preferably before the court closes for the Summer Vacation in the second week of April, 2018 and if for any unforeseen reason, it is not reasonably possible for the trial court to achieve that target, then reasonable endeavours may be made by the said court to ensure that the matter is disposed of at least well before 15th of June, 2018.

With these observations and directions, the above Original Petition (Civil) stands finally disposed of.