

W.P.No.130 of 2022
and W.M.P.Nos.136 & 138 of 2022

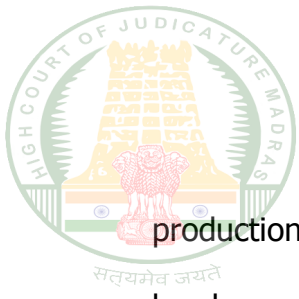
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R. SURESH KUMAR,J.

Heard Mr.C.K.Chandrasekar, learned counsel appearing for the petitioners and Mr.T.Chandrasekaran, learned Special Government Pleader appearing for the respondents.

2. Learned counsel for the petitioners submitted that, the idol in the ancient temple called Arulmighu Paramasivan Swamy Thirukkoil, Siviypalayam, Kangeyam Taluk, Tiruppur District was stolen. Subsequently, that was retrieved by the Police and thereafter it was produced before the concerned Court ie., the Special Court for dealing with Idol Theft cases located at Kumbakonam. The idol has been handed over to the temple authorities and it has been re-installed ie., Prathishtai has been again done in the Temple, where Kumbabishekam also has been performed. The idol now is being worshipped by large number of devotees including the village people, where the temple is located.

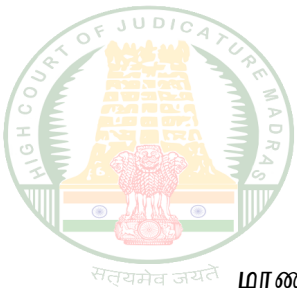
3. At this juncture, now the subsequent Judicial Officer, who is dealing with the Idol Theft cases at Kumbakonam seems to have issued a direction to produce the idol ie., the Moolavar itself for inspection and to complete the enquiry before the Court, for which the date is fixed as 06.01.2022 ie., today. When an attempt was made by the Executive Officer ie., the third respondent of the temple concerned to remove the idol for



production of the same before the Magistrate Court at Kumbakonam, it seems that there has been a large scale objection from the devotees as well as the village people including the petitioners.

4. Despite the said objection registered on behalf of the devotees and village people including the petitioners, the third respondent has issued a communication dated 23.12.2021, where inter-alia he has stated the following.

பார்வையில் கனும், ஊர் பொதுமக்கள் கடிதம் கவனமாக பரிசீலிக்கப்பட்டது. இதுகுறித்து சட்ட வல்லுநர்களிடம் கலந்து ஆலோசிக்கப்பட்டது என்ற விபரம் தங்களுக்கு இதன் மூலம் தெரிவித்துக்கொள்ளப்படுகிறது. சும்பகோணம், மாண்புமிகு கூடுதல் தலைமை நீதித்துறை நடுவர் நீதிமன்றம் (சிலை திருட்டு தடுப்பு சிறப்பு நீதிமன்றம், சும்பகோணம்) உத்தரவு என்பதால் திருக்கோயில் நிர்வாகம் அதனை ஏற்று செயல்பட கடமைப்பட்டுள்ளது என்பதை உறுதியுடன் தெரிவித்து, மூலவர் விக்ரகத்தை மாண்புமிகு காங்கேயம் குற்றவியல் நீதிமன்ற நடுவர் அவர்கள் கடிதத்தில் கண்டுள்ள உத்தரவு மற்றும் மாண்புமிகு கூடுதல் தலைமை நீதித்துறை நடுவர் நீதிமன்றம் (சிலை திருட்டு தடுப்பு சிறப்பு நீதிமன்றம், சும்பகோணம்) ஆகிய நீதிமன்றங்கள் பிறப்பித்த உத்தரவு என்பதால், மூலவர் விக்ரகத்தை ஆஜர்படுத்துவதை கைவிடுமாறு கோரிய தங்கள் வேண்டுகோள் நிராகரிக்கப்பட வேண்டிய நிலை ஏற்பட்டுள்ளதினை தங்களுக்கு இதன் மூலம் அன்புடன் தெரிவித்துக்கொள்ளப்படுகிறது.

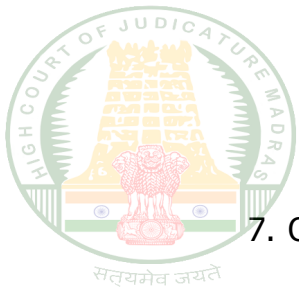


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எனவே, எதிர்வரும் 06.01.2022-ம் தேதி கும்பகோணம் மாண்புமிகு கூடுதல் தலைமை நீதித்துறை நடுவர் நீதிமன்றத்தில் (சீலை திருட்டு தடுப்பு சிறப்பு நீதிமன்றம், கும்பகோணம்) நடைபெறவுள்ள விசாரணையில் மேற்படி மூலவர் விக்ரகங்களை ஆஜர்படுத்துவதற்கு ஏதுவாக தாங்கள் தக்க ஒத்துழைப்பு உதவிகள் நல்குமாறு ஊர் பொது மக்களாகிய தங்களை அன்புடன் கேட்டுக்கொள்ளப்படுகிறது. தவறும் பட்சத்தில் சட்டப்படியான நடவடிக்கைகளை மேற்கொண்டு மேற்படி, மூலவர் விக்ரகங்களை கொண்டு செல்லும் நிகழ்வினை தவிர்க்க இயலாது என்பதனை ஊர் பொது மக்களாகிய தங்களுக்கு இதன் மூலம் இறுதியாக தெரிவித்துக்கொள்ளப்படுகிறது."

5. Challenging the said communication and also in order to prevent the proposed action on the part of the third respondent Executive Officer to remove the idol from the temple for the purpose of production of the same at the Court at Kumbakonam, these petitioners, who are devotees as well as the village people, on their behalf also has moved this writ petition with the aforesaid prayer.

6. Therefore, the learned counsel for the petitioners seeks the indulgence of this Court to take suitable measures by giving orders ensuring that the idol which is the Moolavar already been installed and everyday poojas are performed, shall not be removed from the Temple, which will go against the Agama Rules and also would go against the sentiments of large number of devotees.



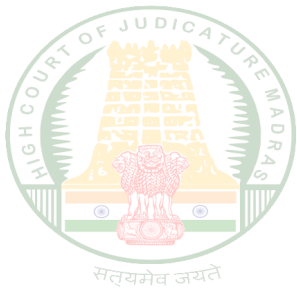
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7. On the other hand, Mr.T.Chandrasekaran, learned Special Government Pleader appearing for the respondents, on instructions would submit that, though it was proposed to remove the idol and produce the same before the Court at Kumbakonam today, ie., 06.01.2022, of course pursuant to the direction already issued by the said Court, the said move could not be materialized today because of the stiff resistance came from the village people as well as the devotees.

8. Learned Special Government Pleader appearing for the respondents would also submit that, before removal of the idol, Balaalayam has to be performed and that, even for performing the same, none of them have come forward to co-operate with the Executive Officer and that is the reason that the Executive Officer could not remove the idol and to comply with the order passed by the Magistrate to produce the idol on 06.01.2022.

9. I have considered the submissions made by the learned counsel for the parties and have perused the materials placed on record.

10. The idol ie., Moolavar, which was originally stolen, has already been installed, of course pursuant to the earlier direction issued by the Court concerned, and Kumbabishekam has been performed, and thereafter regular poojas are being performed and large number of devotees are visiting the temple to worship the God.



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11. If it is a Urchavar ie., the idol that can be taken out for procession during festival season, that can very well be taken to any place, of course by following the Agama Rules in this regard. However, in the case of Moolavar, if it is installed once after performing Agama Poojas pursuant to Samprokshanam or Kumbabishekam at the Sanctum Sanctorum, then it cannot be removed instantly, even of course pursuant to the order passed by the Court concerned.

12. In this context, this Court wants to balance the compliance of the order of the Court concerned as well as the Agama rituals and the sentiments of the village people and devotees. Hence this Court is of the view that, if at all the learned Magistrate wants to verify whether the idol is in good condition and it is being protected in the temple concerned with performing the Poojas etc., only for the limited satisfaction of the learned Magistrate, he can appoint an Advocate Commissioner, who can visit the temple along with the Executive Officer and also the temple authorities, if any, with some representatives of the village people or devotees, and after having visited the temple, the Advocate Commissioner can prepare a detailed report and submit the same to the concerned Court, based on which the further proceedings with regard to the conducting of the trial or progression of the case can be undertaken by the learned Magistrate.



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13. Therefore, for the said purpose, the idol ie., the Moolavar need not be removed once and be produced before the Magistrate Court concerned, the reason being that, the idol, according to the belief of the devotees, is the God. The God cannot be summoned by the Court to be produced for a mere inspection or verification purposes, as if that it is a material object of a criminal case. Therefore, this Court is of the firm view that, the aforesaid measure would serve the purpose of the compliance of the order of the learned Magistrate, without disturbing or wounding the feelings of large number of devotees of the God concerned. Therefore, the aforesaid measure shall be undertaken by the learned Magistrate and the idol ie., the Moolavar need not be removed for the said purpose. This order shall be executed by all concerned including the learned Magistrate, to whom a copy of this order shall be forwarded by the Registry. Post the matter after four weeks for filing counter.

.12.2021

KST

Note : Issue order copy today (06.01.2022)

Copy to :

The Additional Chief Judicial Magistrate
Special Court for Idol Theft Cases
Kumbakonam



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