

Madras High Court

T.A.Ranganathan vs Mr.N.Thiyagarajan on 24 February, 2020

Cont.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Cont.P.No.367 of 2020

in

A.S.No.175 of 1910

T.A.Ranganathan

..Pet

Vs.

Mr.N.Thiyagarajan

Executive Trustee / Assistant Commissioner,

Sri Devaraja Swamy Devasthanam,

Sannadhi Street, Kanchipuram.

..Responden

Prayer: Petition filed under Section 11 of Contempt of Court Act, 1971 praying to initiate contempt proceedings against respondent, enquire and punish him for wilfully and deliberately disobeying the judgments of this Hon'ble Court dated 15.01.1915 in Appeal No. 175 of 1910 and in Appeal No.283 of 1963 dated 24.03.1969.

For Petitioner

: Dr.T.S.Ramaswamy

for C.H.Vinobha Gandhi

1/28

<http://www.judis.nic.in>

Cont.P.No

For Respondent

: Mr.M.Karthikeyan,

Special Govt. Pleader (HR & CE)

ORDER

The Contempt Petition is filed against the respondent to punish him for the wilful disobedience of the judgment of this Hon'ble Court dated 15.01.1915 in Appeal No.175 of 1910 and in Appeal No. 283 of 1963 dated 24.03.1969.

2. Let us now consider the orders passed by the High Court in Appeal No.175 of 1910 and Appeal No.283 of 1963. The first judgment dated 15.01.1915 deals with whether the Vadagalais are entitled to form ghosti behind the Vedic ghosti and sing their own Prabandams and Mantrams. If they do not interfere with the Vedic ghosti, we do not think that there would be any objection to their doing so. This Hon'ble Court proceeded by stating that they have got as much right as the Thengalais to use the public street and it also to be observed that the ghosti behind is composed of Vadagalai Mirasdars and the <http://www.judis.nic.in> Cont.P.No.367 of 2020 Thengalais only joined as ordinary worshippers. Under those circumstances, the bench held that the Thengalais are not entitled to any injunction to prevent the Vadagalais from doing so.

3. In the concluding paragraph, the Division Bench of this Court consisting Hon'ble Mr.Justice Sankaran Nair and Hon'ble Mr.Justice Oldfield significantly held as follows:

24. As to the ghosti in front, it stands in a different footing. The recital of the prabandham in front of the idol is considered more appropriate than behind the idol and the Vadagalai insist upon their claim to do so on that ground. But we think the Judge is right in holding that this should not be allowed. The recitation of the prabandhams and the mantrams in front of the idol can only be intended as a worship of the idol. It is not intended as such, then there is no reason for insisting that they must be allowed to march in front and the right to carry on such ceremonial worship resides in the resident Thengalais. For the reasons we have already given, to allow this claim <http://www.judis.nic.in> Cont.P.No.367 of 2020 would enable them to perform the duties of the office and destroy the value of the mirasdars.

4. In paragraph No.23 of the judgment, the Hon'ble Division Bench of this Court clarified the question whether the Vadagalais are entitled to form ghosti behind the Vedic ghosti and sing their own Prabandhams and Mantrams. The Division Bench reiterated that Vadagalais have got as much right as the Thengalais to use the public street and it has also to be observed that the Vedic ghosti behind is composed of Vadagalai Mirasdars and the Thengalais only joined as ordinary worshippers. Accordingly, the Division Bench arrived a conclusion that the Thengalais are not entitled to any injunction to prevent Vadagalais from doing so.

5. The Bench concluded the recitals of the Prabandhams and Mantras in front of the idol can only be intended as a worship of the idol. It is not intended as such, then there is no reason for insisting <http://www.judis.nic.in> Cont.P.No.367 of 2020 that they must be allowed to march in front and the right to carry on such ceremonial worship resides in the resident Thengalais.

6. While modifying the decree of the lower Court, the Division Bench clarified that the Thengalais must be allowed to march in front and thereafter, there is no objection for the Vadagalais to form a

ghosti behind the Vedic ghosti and sing their own Prabandhams and Mantrams. Thus, the Division Bench has unambiguously held by modifying the trial Court decree that Thengalais should be allowed to march in front and thereafter, the Vadagalais can join and recite their Mantrams. The Bench clarified that Vadagalais cannot be prevented from using the public street as it is meant for all the citizen and the said position is also clarified.

7. As far as the other judgment cited in the Appeal No.283 of 1963 dated 24.03.1969, the Division Bench held as follows: <http://www.judis.nic.in> Cont.P.No.367 of 2020 36. On a consideration of the evidence, we have no doubt that the custom and usage pleaded by the plaintiff are not true. We have also as hesitation in holding, upon the authorities of the decision binding upon the parties, that the custom and usage pleaded by the plaintiff go directly counter to these decisions. We have no doubt that the attempt of the Vadakalais in this litigation is to introduce and establish an innovation opposed to the decisions binding in them.

Mr.Venkatavaradachariat, appearing for the defendants 4 and 5, urged, with some amount of justification, that this attitude of the Vadagalais in putting forward some innovation or other in one form or another from time to time has been responsible for the series of litigations pertaining to this temple going on for the last two centuries. In Thathachariar v. Thiruvenkatachariar Sadasiva Aiyar, J., had occasion to make some adverse remarks against the attitude of the Vadakalais wherein the learned Judge has pointed out that the litigation in that case was the result of the action of a small, though influential, faction of Vadagalai sectarians residing in Kancheepuram by introducing innovations in customary <http://www.judis.nic.in> Cont.P.No.367 of 2020 practices during the period of regular official worship in the temple. Tolerance and mutual respect are the hallmarks of Hinduism and it is a pity that these two sects of Vaishnavites who profess to be the followers of great saints and savants are so intolerant against each other even in respect of small and unimportant rituals and ceremonies. We can only hope that the people belonging to these two sects would realise the futility of this kind of useless and wasteful litigation and stop their acrimonious fight.

37. In conclusion we desire to say that we had the benefit of erudite and lucid arguments of Mr.Gopalaswami Ayyangar and Mr.Venkatavaradachariar, leading counsel, who are well conversant with the doctrines and rituals of the respective party for whom they appear, they themselves being members of the respective sect. In the result, the appeal fails and is dismissed with costs. Two sets.

8. Both the Hon'ble Division Benches have never prevented the Vadagalais from reciting the Sri Ramanuja Dhayapathram and <http://www.judis.nic.in> Cont.P.No.367 of 2020 Prabandhams. All the devotees must be permitted to chant Mantrams, if they are conversant with Prabandhams and Mantrams. In the current day situation devotees are to be treated equally with reference to the Equality Clause enunciated under the Constitution. There cannot be any discrimination on the basis of the Caste or Religion. When the spirit of the Equality Clause is enunciated and it is a fundamental right under the Constitution, then certain procedures being followed for centuries by way of customary practices alone are to be recognised, keeping in mind that such customary practices are not affecting the fundamental rights of any citizen.

9. Exercise of any right, whether Constitutional or statutory is always subject to certain restrictions and such exercise of Constitutional, statutory or customary rights would not infringe the fundamental rights of the fellow citizen of this great Nation. Thus, even such customary and religious practices are to be recognised within the parameters of the Constitutional philosophy and ethos. It is not as if, Courts can approve a practice, which is unconstitutional. <http://www.judis.nic.in> Cont.P.No.367 of 2020

10. The above two judgments do not prevent Vadagalais from reciting Prabandhams or Sri Ramanuja Dhayapathram. Contrarily, the Hon'ble Division Bench modified the decree of the trial Court by stating that Thengalais must be permitted to march in front and Vadagalais also entitled to join with the Thengalais for reciting Prabandhams.

11. Undoubtedly, both the sectors have got mutual respect towards the Acharyas. They have no contrary opinion regarding the devotion as well as the contribution of those great souls for the development of Hinduism. Under these circumstances, this Court is of an opinion that raising certain disputes on account of certain personal animosity or opinions or ego's shall not be allowed and cannot play any role in the matter of performing Pooja festivals in a public temple.

<http://www.judis.nic.in> Cont.P.No.367 of 2020

12. The learned counsel appearing on behalf of the petitioner himself is a scholar and exhaustively made comparative study regarding the customary practices, disputes in the temples, more specifically, between Vadagalais and Thengalais.

13. The learned counsel for the petitioner reiterated that the Division Bench order is prohibiting the Vadagalai Sect from reciting Sri Ramanuja Dayapathram at the first instance and they are prevented from marching in front and therefore, they have committed Contempt of Courts and the first respondent has not prevented such violation and consequently the first respondent is liable to be punished under the Contempt of Courts Act. It is contended that the first respondent, Executive Trustee / Assistant Commissioner is colluding with Vadagalais Sect and allowing them to march in front for reciting Sri Ramanuja Dhayapathram and Prabandhams and therefore, the Executive Trustee / Assistant Commissioner committed Contempt of Courts and liable to be punished. <http://www.judis.nic.in> Cont.P.No.367 of 2020

14. In other words, it is contended on behalf of the petitioner that the first respondent is not implementing the judgment of this Court by permitting the Vadagalais Sect to recite their own Mantrams at the first instance and thereby preventing the Thengalai Sect from exercising their right with reference to the Judgment of the Hon'ble Division Bench.

15. The learned Special Government Pleader appearing on behalf of the first respondent disputed the said contentions raised on behalf of the Contempt Petitioner by stating that the first respondent is the Authority under the provisions of the Hindu Religious and Charitable Endowments Act and he always performs his duties and responsibilities as a neutral person and by strictly following the scheme approved for the management of Devaraja Swamy Temple. <http://www.judis.nic.in>

Cont.P.No.367 of 2020

16. The learned Special Government Pleader has stated that certain disputes are prevailing between the Vadagalai Sect and Thengalai Sect and they are creating frequent trouble more specifically, during the Pooja festivals. Allegations are raised mutually between them for recital of Mantrams and Prabandhams and the dispute arises, who should commence the recital of the Mantras and such situation creates a concern not only to the Temple administration but a greater concern to the regular devotees and the public at large, who all are visiting the temple for worship. On account of these disputes between these two sectors, the Temple administration is unable to conduct Pooja festivals peacefully and in the manner prescribed. Even the devotees, who all are visiting Devaraja Swamy Temple for worship are raising concern about their disputes as they are not arriving consensus for the purpose of chanting Mantrams and Prabandhams. The Temple administration is strictly following the scheme approved as well as the provisions of the HR & CE Act and continuously initiating steps to resolve the issues <http://www.judis.nic.in> Cont.P.No.367 of 2020 in a peaceful manner. However, the Temple administration has failed and the dispute continues till today.

17. The learned counsel appearing on behalf of the Contempt Petitioner by way reply submitted that there is an order of permanent injunction operating against Vadagalai Sect and they should not be permitted to recite Mantrams and Prabandhams, more specifically, Sri Ramanuja Dayapathram at the first instance and the decree passed by the trial Court is to be implemented in its strict terms. However, the fact remains that the Division Bench has modified the decree passed by the trial Court.

18. Considering the arguments on behalf of the Contempt Petitioner as well as the first respondent, this Court is of the considered opinion that the first judgment in Appeal No.175 of 2010 dated 15.01.1915 is a pre-constitutional judgment. However, the subsequent judgment in Appeal No.283 of 1963 dated 24.03.1969 is the post-constitutional judgment.

<http://www.judis.nic.in> Cont.P.No.367 of 2020

19. Reading of the above two judgments reveals that the respective Hon'ble Division Benches had not injected the Vadagalais from reciting Mantrams including Prabandhams. Recital of Mantrams is a fundamental right of a citizen of this great Nation. Recital of Mantrams cannot be prevented even by the Courts in a Temple by any devotee or worshiper. However, certain customary religious practices being adopted for centuries are to be respected in the context of religious faiths and sentiments. However, the Courts are to be cautious that such Religious sentiments and faiths would not infringe the fundamental rights of citizen. Thus a balancing approach is to be adopted in order to respect certain customary religious practices and the sentiments of the people at large, with reference to the scheme approved under the HR & CE Act as well as the fundamental rights of the citizen under the Constitution of India. All these are to be considered. It is not as if that Thengalai Sect can prevent Vadagalai Sect from reciting Mantrams so also the Vadagalais can prevent Thengalais from reciting Mantrams and Prabandhams. Exercise of <http://www.judis.nic.in> Cont.P.No.367 of 2020 their rights mutually without offending any one and by respecting each others rights are of paramount importance and is the Constitutional principle. Thus, respect

towards individual religious practices and performance of their religious rights without offending or infringing the rights of others to perform their religious practices are to be protected and in fact, all such faiths, sentiments and religious practices of the respective sectors and the citizen of this great Nation are to be respected and protected.

20. It is brought to the notice of this Court that on account of dispute between the Vadagalai Sect and Thengalai Sect, the Prabandhams are not chanted for the past about two years. Despite the fact that the first respondent, Executive Trustee / Assistant Commissioner invited Thengalais first to recite their Mantrams and they have refused to do so and the Temple administration is unable to resolve the issues between them, which resulted non-chanting of Prabandhams in the Temple for the past about two years. Such a <http://www.judis.nic.in> Cont.P.No.367 of 2020 situation is created undoubtedly on account of certain personal animosity and on ego.

21. In the interest of public and in the interest of the Temple administration, this Court necessarily has to issue certain directions and clarifications with reference to the facts and circumstances placed before this Court.

22. The Division Bench of this Court has delivered judgments on 15.01.1915 and on 24.03.1969. Thereafter, 50 years lapsed. Therefore, this Court is not inclined to punish the first respondent in this Contempt Petition, as the 1st respondent has not committed any contempt willfully. However, now after 50 years, the Contempt Petitioner has raised certain disputes by stating that their rights to recite Srisaila Dayapathram is to be directed and they must be permitted to march in front and recite Srisaila Dayapathram as per the judgments of the Division Bench. Undoubtedly, the judgments of <http://www.judis.nic.in> Cont.P.No.367 of 2020 this Court are to be scrupulously followed. However, the changes made in religious practices and customary practices and sentiments over the last 50 years are also to be taken note of by this Court. This Court cannot brush aside the drastic and significant changes in the society in the matter of following customary practices, religious faiths and sentiments. Undoubtedly, the religious faiths and rights are subject to public order, morality and health and to the other provisions of Part-III of the Constitution of India and all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. Therefore, reciting Mantrams or chanting Prabandhams by the respective sectors inside the Temple cannot be prohibited. However, while performing Pooja festivals certain procedures are being followed, wherein Thengalais are permitted to march in front and recite Srisaila Dayapathram, more specifically, the first two lines and thereafter, the Vadagalais Sect can recite their Mantrams and both together shall chant Prabandhams and thereafter, conclude the Pooja festival. Mutual <http://www.judis.nic.in> Cont.P.No.367 of 2020 respect towards both Sri Srisaila Dayapathram and Sri Ramanuja Dayapathram are of paramount important. However, certain procedures being allowed alone can be permitted and there cannot be any place for personal animosity, ego or otherwise as the Temple is a public institution and is being administered under the provisions of the HR & CE Act and claiming monopoly or prerogative is impermissible.

23. Thus, the complaint made on behalf of the Thengalai Sect that they alone should be permitted to recite Prabandhams can never be permitted. Both the Vadagalai and Thengalai Sectors should be permitted to recite Prabandhams and there cannot be any other opinion, as in the event of

permitting a particular Sect, would result in unconstitutionality.

24. It is painful to record that on account of these men created indifferences and unnecessary disputes, are causing greater concern <http://www.judis.nic.in> Cont.P.No.367 of 2020 to the society at large. Therefore, mutual respect in performance of religious practices and customs are to be protected. It is for the people, who all are responsible for reciting Mantrams to respect the sentiments of the other sectors, more specifically, during the Pooja festivals and, while performing the rituals. Thus, on account of these disputes between Vadagalais and Thengalais, chanting of Prabandhams should never be stopped and by not reciting the Prabandhams both the Vadagalai Sect and Thengalai Sect are not only committing sin but doing dis-services to the Deity in the Temple.

25. Rights and Duties are inseparable. When both the sectors are claiming certain rights, they are equally obligated to perform their corresponding duties. Dispute may arise and disappear, but chanting of Prabandhams can never be stopped. Disputes are temporary between the human beings, who all are mortals. However, the concept of faith, sentiments and devotion towards religion is immortal, as the same continues from time immemorial. Therefore, <http://www.judis.nic.in> Cont.P.No.367 of 2020 neglecting the duty is also to be construed as a sin being committed and under these circumstances, this Court is of the considered opinion that stopping recital of Prabandhams are to be condemned and hereafter, both the sectors are expected to perform their duties in accordance with the religious practices in vogue for long years.

26. The contention of Thengalai Sect that Vadagalai Sect shall not be permitted to recite Sri Ramanuja Dayapathram and Prabandhams can never be accepted. Such an argument, deserves no merit consideration. During the course of arguments, the learned counsel for the petitioner also graciously contended that they have got greater respect towards Desigam Prabandhams and equally Vadagalai Sect also have great respect towards Vedhandha Desigam. Undoubtedly, all those great souls, who had contributed for the development of the humanity are to be respected. Those great souls had admittedly sacrificed their entire life and contributed for the development of religious faiths in the society for the purpose of <http://www.judis.nic.in> Cont.P.No.367 of 2020 maintaining orderliness, peace, love and affection in the society. When their contributions can never be disputed or undermined by anyone, there cannot be other opinion in respecting those great souls and both the sectors have no dispute with reference to the said contentions.

27. At last, the dispute remains, who should commence recital of Mantrams at the first instance in front of idol and what should be the procedures to be followed. The recital of Mantrams at the first instance mostly arises on account of the sectoral differences and on personal ego.

28. This Court is of an undoubted opinion that individualization of performances of religious rights have no role in the matter of worshiping God in a public Temple. The Temple being a public institution there cannot be any individualization or otherwise regarding certain religious practices and customary <http://www.judis.nic.in> Cont.P.No.367 of 2020 practices to be followed by any of the Sector or as a matter of fact any other person. Our Mother Land now being a developed Nation and the largest democratic Country and the democratic principles are growing vibrantly, such sectoral

discreminations or indifferences or ego in religious practices can never be tolerated, but to be deprecated. Courts cannot allow such discrimination. However, Courts are bound to regulate the practices. Equality, Unity, mutual respects regarding certain religious practices in accordance with law are constitutional mandates and both the sectors are duty bound to maintain these aspects, while performing their religious practices and customary rights etc.

29. In the event of any such violation, it is to construed that both the Vadagalai and Thengalai Sectors are disrespecting the religious sentiments of the public at large, as Sri Varadharaja Swamy Temple is being worshiped by lakhs and lakhs of devotees from various places across the Country. Thus, religious sentiments, faiths <http://www.judis.nic.in> Cont.P.No.367 of 2020 of those public at large in the society are to be respected or protected by all concerned, who all are responsible for performing Pooja festivals.

30. The first affidavit filed by the Executive Trustee / Assistant Commissioner was withdrawn on account of the fact that it was filed hurriedly and without stating correct stand of the Executive Trustee. Thus, the first respondent is permitted to withdraw the first affidavit filed by the Executive Trustee on 19.02.2020. However, the Order in this Contempt Application is passed not only with reference to the Affidavit filed by the Executive Officer but by considering the facts and circumstances placed by the respective parties before this Court.

31. The learned Special Government Pleader also made a submission that certain directions are necessary from this Court for the purpose of maintenance of peace and more specifically, while conducting Pooja festivals in the interest of the Temple <http://www.judis.nic.in> Cont.P.No.367 of 2020 administration. Further it is contended that the first respondent being a neutral person has not committed any Contempt of Court and always the first respondent is attempting to bring peace, while performing the Pooja festivals and therefore, the complaint made out in this case regarding contempt is untenable.

32. In view of the facts and circumstances and in the interest of the public at large and in the interest of the Temple administration, this Court is inclined to issue the following directions:

(i) The first respondent / Executive Trustee / Assistant Commissioner is directed to invite Thengalai Sect firstly during Pooja festivals and on such invitation the Thengalai Sect shall be permitted to recite the first two lines of Srisaila Dayapathram (initial recital) and on completion of the said initial recital by Thengalai Sect, the first respondent shall permit Vadagalai Sect to commence the first two lines of Sri Ramanuja Dayapathram (initial recital) and on their completion of initial recital, then both Vadagalai and Thengalai <http://www.judis.nic.in> Cont.P.No.367 of 2020 Sectors shall be permitted to recite Prabandhams jointly. On completion of Prabandhams, the Thengalai Sect shall be permitted to recite the concluding Mantram Manavalamamunigal Vaazhithirunamam and thereafter, Vadagalai Sect shall be allowed to recite their concluding Matram Desikan Vazhi Thirunamam and accordingly the process of recitals shall be concluded.

(ii) If any one of the sect namely Vadagalai or Thengalai, not willing to recite their Mantrams and Prabandhams, as per the directions issued by this Court as above, then the first respondent shall

permit anyone of the willing sect to recite the Mantrams and Prabandhams during Pooja festivals.

(iii) With reference to other religious practices, during Pooja festivals the first respondent is directed to implement the approved scheme scrupulously by issuing suitable guidelines / directions to all concerned.

<http://www.judis.nic.in> Cont.P.No.367 of 2020

(iv) The first respondent is directed to register a Police complaint in the event of any law and order problem or otherwise during performance of the Pooja festivals. On such complaint, jurisdictional Police shall register a complaint and investigate the same, and initiate appropriate actions in accordance with law.

(v) In the event of violation of any of these directions issued in this Contempt Petition, will be treated as Contempt of Court and the first respondent Executive Trustee / Assistant Commissioner is directed to file an application before this Court.

33. The said procedures are to be followed in all the Pooja festivals with effect from 1st March 2020.

<http://www.judis.nic.in> Cont.P.No.367 of 2020

34. With the above directions, the Contempt Petition stands closed. No costs.

24.02.2020 Pns Index: Yes/No Internet:Yes/No Speaking order/Non-Speaking Order
<http://www.judis.nic.in> Cont.P.No.367 of 2020 S.M.SUBRAMANIAM, J.

Pns Cont.P.No.367 of 2020 24.02.2020 <http://www.judis.nic.in>