



W.P.(MD)Nos.2678 of 2025 and batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON :	08.09.2025
PRONOUNCED ON :	10.10.2025

CORAM:

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

**W.P.(MD)Nos.2678 & 2277 of 2025 and 15565 of 2023
and**

**W.M.P(MD).Nos.2346, 2309, 2441, 3851,
6169, 5044, 7865, 1886, 14727 and 1761 of 2025
and 13082 of 2023**

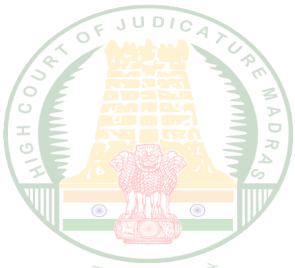
W.P.(MD) No.2678 of 2025:

S.Paramasivam

... Petitioner

-VS-

- 1) The District Collector,
Madurai District
- 2) The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
- 3) The Commissioner of Police,
Madurai City, Madurai.
- 4) The Inspector of Police,
Thiruparankundram Police Station,
Madurai.



W.P.(MD)Nos.2678 of 2025 and batch

5) The Deputy Commissioner/ Executive Officer,
Arulmighu Subramania Swamy Thirukovil,
Thiruparankundram, Madurai – 5

6) Hazarath Sultan Sikkandar Badhusha Avuliya Dargah,
Rep. by its Managing Trustee,
Thiruparankundram, Madurai – 5

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents 1 to 5 to take appropriate action to prevent/prohibit the illegal usage of the name of Thiruparankundram Temple Hillock as Sikkandar Malai and to prohibit any kind of animal sacrifice in any manner by anybody upon the hill area with a view to preserve and protect the sacred and holiness of the Hillock Thiruparankundram.

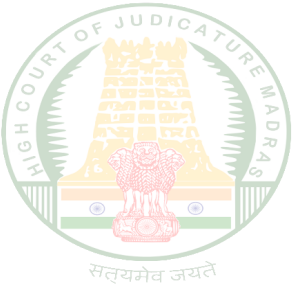
For Petitioner : Mr.G.Karthikeyan
Senior Counsel for
Mr.M.Karthikeya Venkitachalapathy

For RR 1& 2 : Mr.J.Ravindran
Addl. Advocate General
Assisted by Mr.S.R.A.Ramachandran
Additional Government Pleader

For RR 3 & 4 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
S.Ravi, Addl.Public Prosecutor

For R-5 : Mr.R.Shanmuga Sundaram
Senior Counsel
Assisted by Mr.S.Manohar
Standing Counsel

For R-6 : Mr.S.Vanchinathan



W.P.(MD)Nos.2678 of 2025 and batch

WEB W.P.(MD)No.2277 of 2025:

M.Kannan @ Solai Kannan
S/o.R.Muthusamy

...Appellant

-Vs-

- 1) The District Collector,
Madurai District, Madurai.
- 2) The Commissioner of Police,
City Police Commissioner Officer,
Alagar Kovil Road, Madurai.
- 3) The Deputy Commissioner,
Hindu Religious & Charitable
Endowments Department (HR & CE),
Arulmigu Subramaniya Samy Temple,
Thiruparankundram, Madurai.
- 4) The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
- 5) The Officer Incharge,
The Archaeological Department,
Thirumayam, Pudukottai District.
- 6) The Inspector of Police,
Thiruparankundram Police Station,
Thiruparankundram, Madurai City.
- 7) The Tahsildar,
Thiruparankundram Taluk,
Madurai.



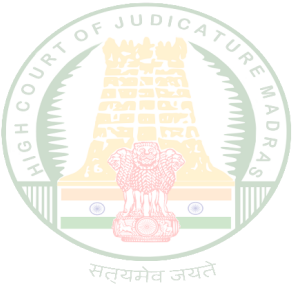
W.P.(MD)Nos.2678 of 2025 and batch

WEB 8) The Trustee,
Sikandar Badusha Avuliah Dargah,
Thiruparankundram, Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents No. 1 to 7 to prevent the 8th respondent at any point of time from performing any form of animal sacrifice in entire Thiruparankundram Hill and also from serving food prepared by animal sacrifice based on the representation dated 16.01.2025, 17.01.2025.

For Petitioner	: Mr.V.Ramakrishnan
For RR 1, 4 & 7	: Mr.J.Ravindran Addl. Advocate General Assisted by Mr.S.R.A.Ramachandran Additional Government Pleader
For R-3	: Mr.R.Shanmuga Sundaram Senior Counsel Assisted by Mr.S.Manohar Standing Counsel
For R-8	: Mr.Isaac Mohanlal, Senior Counsel For Mr.B.Arun
For RR 2 & 6	: Mr.Veera.Kathiravan Additional Advocate General Assisted by S.Ravi, Addl. Public Prosecutor



W.P.(MD)Nos.2678 of 2025 and batch

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For R-5

: Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by Mr.K.Govindarajan,
Deputy Solicitor General of India

:Mr.T.Lajapathy Roy
Senior Counsel for
M/s.Roy and Roy Associates
(Proposed respondent in
WMP(MD).No.14727 of 2025)

:Mr.R.Abdul Mubeen
for Mr.D.S.Haroon Rasheed
(Proposed respondent/Waqf Board
in WMP(MD).No.7865 of 2025)

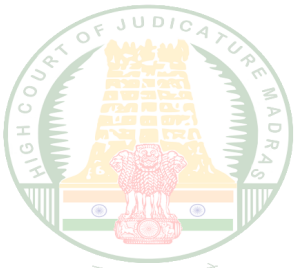
W.P.(MD)No.15565 of 2023:

A.P.Ramalingam,
State Organization Secretary,
Hindu Makkal Katchi,
Agila Bharatha Hanuman Sena
(Registered No.143.2018),
Thirukkulam 1st street,
Periya Ratha Veethi, Thiruparankundram,
Madurai 625 005

... Petitioner

-VS-

1) The Secretary to Government,
Hindu Religious and Charitable
Endowments Department,
Chennai.

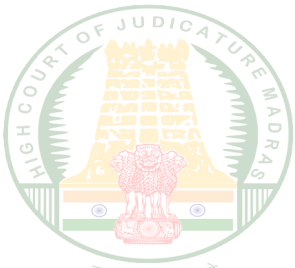


W.P.(MD)Nos.2678 of 2025 and batch

- 2) The Commissioner,
Hindu Religious and Charitable
Endowments Department, Chennai.
- 3) The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Ellis Nagar, Madurai.
- 4) The District Collector,
Collectorate Campus,
Madurai District.
- 5) The Executive Officer,
Arulmighu Subramania Swamy Thirukovil,
Thiruparankundram, Madurai.
- 6) The Commissioner of Police,
O/o the Commissioner of Police,
Thamaraithotti,
K.Pudur, Madurai 625 007
- 7) The Inspector of Police,
Thiruparankundram, Town Police Station,
Thiruparankundram, Madurai 625 008
- 8) Sikkandar Badhusha Dharga,
Rep. by its Jamath Members,
Thiruparankundram,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents No. 1 to 7 to take necessary action as against the 8th respondent not to conduct prayer or any other gathering in Nellithoppu at Arulmighu Subramaniaswamy Thirukovil at



W.P.(MD)Nos.2678 of 2025 and batch

Thirupparankundram, Madurai District, based on the petitioner's representation dated 13.05.2023 and 19.06.2023.

For Petitioner : Mr.Niranjan S Kumar

For RR 1 to 4 : Mr.J.Ravindran
Addl. Advocate General
Assisted by Mr.S.R.A.Ramachandran
Additional Government Pleader

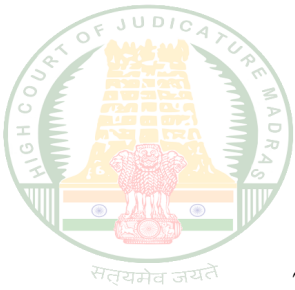
For R-5 : Mr.R.Shanmuga Sundaram
Senior Counsel
Assisted by Mr.S.Manohar
Standing Counsel

For RR 6 & 7 : Mr.Veera Kathiravan,
Addl. Advocate General
Assisted by Mr.Ravi,
Additional Public Prosecutor

For R-8 : Mr.Isaac Mohanlal, Senior Counsel
For Mr.B.Arun

COMMON ORDER

The above said writ petitions were tagged together and heard by the Hon'ble Division Bench of Mrs.Justice J.Nisha Banu and Mrs.Justice S.Srimathy. Out of these writ petitions, both the learned Judges were pleased to concur and dismissed WP(MD).Nos.3701 of 2025, 8523 of 2017 and 23198 of 2023.



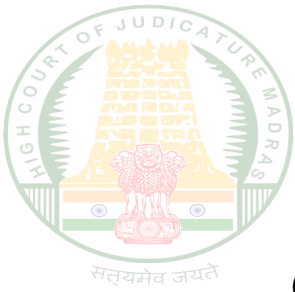
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2.As far as the other three writ petitions are concerned, there was a divergent opinion. The learned Judge Mrs.Justice J.Nisha Banu had dismissed all the three writ petitions and Mrs.Justice S.Srimathy has allowed these three writ petitions. In view of cleavage of opinion between the two Judges, the matter was placed before the Hon'ble Chief Justice for nominating the third Judge. Thus, these writ petitions are listed before this Court.

3. Since both the learned Judges have concurred and dismissed WP(MD).Nos.3703 of 2025, 8523 of 2017 and 23198 of 2023, this Court has not permitted the counsels to address their submissions in these writ petitions. In case of any grievance to any one of the parties over the orders passed in these writ petitions, it is for the aggrieved parties to approach the appropriate forum for ventilating their grievance.

4(A).The prayer sought for in the other three writ petitions are as follows:

(i).**Prayer in WP(MD).No.2277 of 2025:** This petition has been filed for direction, directing the respondents 1 to 7 to prevent the 8th respondent at any point of time from performing any form of animal sacrifice in entire Thiruparankundram Hill and also from serving food prepared by animal sacrifice based on the representation dated 16.01.2025 and 17.01.2025.



W.P.(MD)Nos.2678 of 2025 and batch

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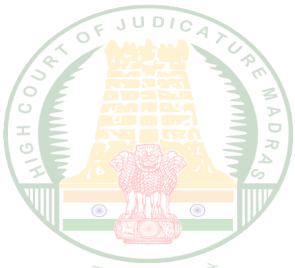
(ii)***Prayer in WP(MD).No.2678 of 2025:*** This petition has been filed directing the respondents 1 to 5 to take appropriate action to prevent/prohibit the illegal usage of the name of Thiruparankundram Temple Hillock as Sikkandar Malai and to prohibit any kind of animal sacrifice in any manner by anybody upon the hill area with a view to preserve and protect the sacred and holiness of the Hillock Thiruparankundram.

(iii)***Prayer in WP(MD).No.15565 of 2023:*** This petition has been filed directing the respondents No. 1 to 7 to take necessary action as against the 8th respondent not to conduct prayer or any other gathering in Nellithoppu at Arulmighu Subramaniaswamy Thirukovil at Thirupparankundram, Madurai District, based on the petitioner's representation dated 13.05.2023 and 19.06.2023.

(B).Pleadings of the parties:

5.WP(MD).No.2277 of 2025 has been filed as a Public Interest Litigation on behalf of Hindu Community People.

6.It is contended in the writ affidavit that Sri Arulmighu Subramaniaswamy Temple at Thiruparankundram in Madurai is the first temple of Arupadai Veedu and it is a cave temple. According to the petitioner, the temple was constructed around 8th century and on the top of Hill, there is Kasi

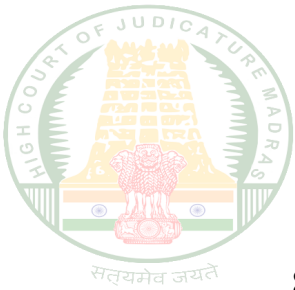


W.P.(MD)Nos.2678 of 2025 and batch

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Vishwanathar Temple, Deepam Thoon and Sthala Virksha Kallati Tree. It is further submitted that on the southern side of the hill, Umai Andar Cave Temple with 11 Theerthakulam is situated. There are Samanar caves also. There is a Jeeva Samathi of Matcha Munivar located on the hill. It is further contended in the affidavit that the entire hill is considered to be a Shiva Sthalam and Girivalam is being performed on every full moon day. According to the petitioner, no animal sacrifice is being done over hillock and Non-vegetarian is neither prepared nor served. However, over the top of the hill, Sikkandar Badhusa Dhargah is situated. To reach the said Dhargah, one has to climb the hill via Palani Andavar Temple through the traditional footsteps. Several Hindus offer their prayers in Kasi Vishwanathar Temple. The temple authorities take Murugan Vel through the traditional pathway and bring the Theertham from the top of the Hill on this pathway only.

7. According to the petitioner, a pamphlet was distributed on 18th January 2025 by Sikkandar Badhusa Dargah that they are going to perform animal sacrifice by sacrificing Goats and Hens and they are going to organise Samabanthi (common) feast in order to bring communal harmony. On seeing such notices, the entire Hindu Community, residents and also the Devotees of Lord Muruga were totally shocked.



W.P.(MD)Nos.2678 of 2025 and batch

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8.It is further contended that the Dhargah authorities as well as some elements in the locality are attempting to rename Thiruparankundram Hill as 'Sikkandar Malai'. The name of hillock is mentioned as Thiruparankundram, in the revenue records as well as in the records maintained by the Government of India. Archaeological Survey Department call the Hill as 'Thiruparankundram' and nowhere it is called as 'Sikkandar Malai'. Though representation was given to the District Collector and Police Officials, no action was initiated to prevent the animal sacrifice on the top of the Hill.

9.It is further submitted that on the western slope of the Hillock, 'Pancha Pandava' beds are located. It is a centrally protected monument as per The Ancient Monuments and Archaeological Sites and Remains Act, 1958. Some unknown persons have painted green colours and they have desecrated the said monuments. It is further contended in the affidavit that the animal sacrifice of goats and hens would only lead to communal disharmony and create separation between Hindu and Muslims.

10.Referring to Thiruparankundram Hillock as Sikandar Malai also affects the sentiments and belief of Hindu community people. There has been no permission for animal sacrifice or Kanthoori or Samabanthi feast in the previous years.



W.P.(MD)Nos.2678 of 2025 and batch

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11. Since the official respondents have not taken any proper steps to stop the animal sacrifice, the present writ petition has been filed seeking a direction to the official respondents to prevent the Dhargah Administration from performing any form of animal sacrifice in the entire Thiruparankundram Hill and also serving food prepared by animal sacrifice based upon the representation dated 16.01.2025 and 17.01.2025.

12. WP(MD).No.2678 of 2025 has been filed by a devotee of Arulmighu Subramaniaswamy Temple as Public Interest Litigation seeking a writ of mandamus directing the officials respondents to take appropriate action to prevent/prohibit the illegal usage of the name of Thiruparankundram Temple Hillock as Sikkandar Malai and to prohibit any kind of animal sacrifice with a view to preserve and protect the sacredness and holiness of the Thiruparankundram Hillock.

13. WP(MD).No.15565 of 2023 has also been filed as a Public Interest Litigation by the State Organisation Secretary, Hindu Makkal Katchi, Agila Bharatha Hanuman Sena seeking a mandamus as against the official respondents to initiate proper action as against the Dhargah Administration not to conduct prayer or any other gathering in Nellithoppu at Arulmigu Subramaniaswamy Temple at Thiruparankundram based on his representation dated 13.05.2025 and

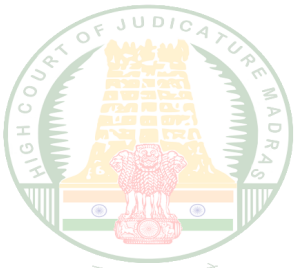


W.P.(MD)Nos.2678 of 2025 and batch

19.06.2025.

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14.A perusal of the averments in the affidavit reveals that Kasi Vishwanathar Temple is located at the top of Thiruparankundram hill. The devotees used a traditional pathway from Palani Andavar Temple to reach Kasi Vishwanathar Temple. In between Palani Andavar Temple and Kasi Vishwanathar Temple, in the middle of hillock, Nellithoppu is located. The devotees take rest there and continue to reach Kasi Vishwanathar Temple. Suddenly on 22.04.2023, the Jamath Members of the 8th respondent Dhargah started offering prayer at Nellithoppu during Ramzan festival. This type of incident has never taken place in Arulmigu Thiruparankundram premises. The Jamath members were only offering their prayers in the mosque which is located at the top of the hill. It is further contended in the affidavit that within the Sikkandar Badhusa Dhargah, there is so much of vacant place for offering prayers. Only with an intention to create nuisance and cause hindrance to the general public who are using traditional pathway to reach Kasi Vishwanathar Temple, prayers are being offered in Nellithoppu area. During offering of the prayer, the entire pathway is polluted by way of food wastage, mainly non-vegetarian food, plastic items etc., The Dhargah administration and some others have claimed that the hillock is Sikkandar Hillock and they are having



every right to offer prayers at any place of the hillock. Hence, the present writ petition.

15.The Dhargah Administration has filed a counter in WP(MD).No. 2277 of 2025. Paragraph Nos.8, 9 and 24 of the said counter are extracted as follows:

“8.I respectfully submit that the Hazarath Sulthan Sikkandar Badhusha Avuliya Dargah and Mosque has been consistently receiving Muslim devotees from all parts of India, who visit to fulfill their spiritual needs and vows. Upon the fulfillment of their prayers, these devotees traditionally stay at the Dargah premises to perform ritual sacrifices of animals (goats and hens), prepare and serve communal feasts and participate in tonsuring ceremonies where they offer their hair as dedication. These practices have been continuously observed without any interruption or dispute for over a century, as evidenced by the local residents of the Thiruparankundram area. Furthermore, the Hindu community members residing in the foothill area have been actively demonstrating interfaith harmony by assisting in carrying sacrificial animals and transporting cooking materials up the hill. The aforementioned practices and customs have been consistently observed for several generations and continue to be an integral part of the Dargah's religious and cultural heritage. Therefore, the writ petitioner's claims regarding the non-existence of such practices on



these premises are categorically false and appear to have been fabricated solely for the purpose of filing this writ petition.

9. It is pertinent to mention that the communal feasts prepared by devotees fulfilling their vows at the said Dargah are participated in by people from Hindu community as well. Furthermore, the security personnel deployed for duty, including police officers, also take part in these feast offerings, which have been an established custom and tradition since time immemorial. This practice shows the deep-rooted faith and communal harmony that has been preserved and practised at this sacred site, transcending religious boundaries and fostering social integration among different communities.

24. However, the writ petitioner, with malafide intention, has deliberately omitted any reference to these judgments in their affidavit. Furthermore, the petitioner had deliberately projected as if the Kandoori rituals are being conducted on the entire Thiruparankundram Hill, contrary to the facts. The writ petitioner has no locus standing to interfere in our religious practices. The Dargah stands on its own legally recognized land, as confirmed by competent civil courts. As established by numerous Court rulings, no person from one religion has the right to dictate how another religion should conduct its practices. The religious rights of every citizen are protected under the Constitution of India. Therefore, this writ petition, which attempts to interfere with our constitutionally protected religious practices, deserves to be dismissed.”



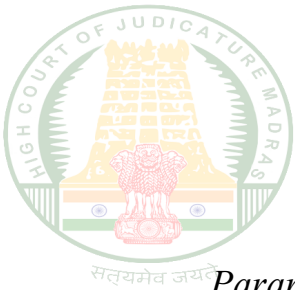
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16.The District Collector, Madurai relying upon the resolution passed in the Peace Committee Meeting held on 30.01.2025 in the presence of various political parties, had filed his counter. Paragraph No.16 of the said counter is extracted as follows:

“16.I humbly submit that the practice of animal sacrifice and consumption of the same as a form of worship exists in the Sikandar Dargah on the top of the hill as a tradition and this followed by the Mohammedans. I also humbly submit that the practice of animal sacrifice in the temples which are located around the Thiruparankundram hill such are Arulmigu Pathinetampadi Karupasamy Thirukovil, Arulmigu Pandimuneeshwarar Thirukovil, Malayandi Karuppaswamy Thirukovil and other Muniyappan Temples. Further, there is also jain temples located in the Thiruparankundram hill. On the strength of the said report, the persons who had participated in the meeting such as all the political parties and also general public agreed to follow the same procedures which are prevalent in all the religions. “

17.The Commissioner of Police, Madurai City had also relied upon all party Peace Committee Meeting held on 30.01.2025 and has filed a counter. Paragraph No.10 of the said counter is extracted as follows:

“10.I humbly submit that it is pertinent to state that one



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Paramasivam, aged 71 years, a permanent resident of this area for years together has given a statement under Section 180(3) BNSS 2023. He has stated in his statement that his father had been doing the work of goat skinning and dressing besides farming and he was also assisting his father both in farming and in goat skinning and dressing. He has also stated that to fulfil their Religious Vow, Muslims from out stations also come to the Sikkandar Dharga at the top of the Thiruparankundram hill and to perform the work of goat skinning and dressing they will call for my father only through Dargah Jamath. He has stated that his father after doing the goat skinning and dressing work at the hill top, he will return with the head, leg, liver and skin of the Goat, as wages for the said work. He has also stated that not only Muslims but people of other religions too will come to the Sikkander Dharga at the top of the hill for goat skinning and dressing and after cooking they had their foods there itself. He has stated that after the demise of his father, he is being invited for doing goat skinning and dressing work. He has stated that he has done the work both at the top of the hill and the bottom of the hill.....”

18.The Temple Administration has not filed any counter before the Hon'ble Division Bench, but a counter came to be filed before this Court on 04.08.2025. Paragraph Nos.18 and 19 of the said counter are extracted as follows;

“18. I submit that admittedly entire hill and in and around



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Giriveethi pathway declared as belonging to this 3rd respondent temple exclusively and the 8th respondent or any one claiming under them only have permission to access the Dharga situated on the top of the hill. I submit that it is pertinent to note that even history and devotees of this 3rd respondent/temple worshipping the entire hill as sacred place and on every month of Full Moon Day Grivalam were also performed by the worshippers from time immemorial.

19.I submit that since because of the belief of sacredness of hill by the devotees in order to respect the same this 3rd respondent temple have not provided any toilet facilities on any part of the hill more particularly at Sri Kasi Vishwanathar temple situated at the top of the hill and request of general public to create road facility to access Sri Kasi viswanathar temple situated at top of the hill was considered and rejected by the temple administration on the ground that laying of road would cause serious damages to hill and further, it would ultimately affect the believe of worshippers and therefore from time immemorial worshippers were permitted to visit Sri Kasi Vishwanathar temple at top of the hill from 06.00 a.m to 6.00 p.m and no general public or staffs of temple administration were permitted to stay in public or staffs of temple administration were permitted to stay in night hours in the hill. I submit that only after considering the said facts alone Hon'ble Privy Council while deciding the issue of title have made it clear that the 8th respondent can only have assess in the hill to reach their Dharga, now the same cannot be extended by way of doing rituals ceremony like conducting kanthuri and animal sacrifice



as easementary rights and the 8th respondent have no right to perform animal sacrifice in the Darga and the 8th respondent has to establish its rights in manner known to law.”

19.A revised counter was filed by the temple on 11.08.2025 before this Court. Paragraph Nos.5, 16, 18 and 19 are extracted as follows:

“5.I submit that writ petitioner herein preferred the above writ petition as Public Interest Litigation and writ petitioner herein states that 3rd respondent temple is historic temple and the entire Thiruparankundram Hill and Hill hock belong to deity and in one small portion Hazarath Sulthan Sikkandar Badhusha, Avuliya Dhargah and Mosque and further it is the case of writ petitioner that 8th respondent herein call the “Thirupparankundram Hills” as “Sikkandar Malai” contrary to revenue records and gazette maintained from 8th century, the change of nomenclature affects the sentiments of Hindu Community as whole.

16.I submit that admittedly entire hill and in and around Giriveethi pathway declared as belonging to this 3rd respondent temple exclusively. It is pertinent to note that even in the history and devotees of this 3rd respondent/temple worshipping the entire hill as sacred place and on every month of Full Moon Day Grivalam were also performed by the worshippers from time immemorial.

18.I submit that when the 8th respondent made application seeking to provide permission to carried out certain construction in the



place earmarked to them therefore this respondent temple insist for details of work carried out by them at top of the hill in order to give necessary permission, but they did not come forward to provide the same as mandate as per the orders passed by the Court, hence, the said permission was also denied to them and further 8th respondent herein have sought permission for installing toilet in the place earmarked to them. If the toilet facilities is provided to top of the hill then huge pipeline is to be erected on hill to carry drainage water and the same would seriously affect the holiness of the hill and therefore, this 3rd respondent temple have not provided the said facilities at Sri Kasi Vishwanathar temple itself, hence the same permission sought by the 8th respondent herein was also denied by this respondent/temple. Regarding, act of animal sacrifice of the 8th respondent is concerned, we do not have any records in our possession to either support or deny the said averments. We have nothing to say on the religious practice or offerings being done inside the Dharga as the same is not within our knowledge.

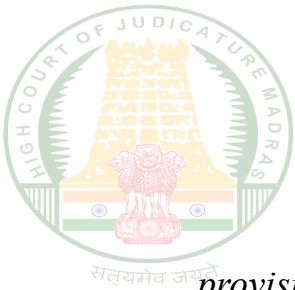
19.I submit that this respondent have specifically denied the permission sought by the 8th respondent for conducting new rituals and festival on the top of hill, since for conducting rituals and festival no space is available within space allocated to them. Further the main deity is only inside the hill as the temple is cave temple and therefore, permitting any one to occupy the top of hill would affect the sanctum sanctorum of main deity and further in the top of the hill Arulmighu Kasi Vishwanathar Temple, Macha Muni ie. one of the 18 Siddhars



along with holy Theertham and it is duty of temple administration to maintain the holiness of the hill and further in O.S.No.4 of 1920 learned Subordinate Judge, Madurai categorically observed that entire hill is temple and the deity and hill cannot be detached. Only because of the same this respondent /temple has imposed restriction for accessing the top of hill.”

20.The Archaeological Survey of India had filed a counter. Paragraph Nos. 4 and 5 are extracted as follows:

“4.With regard to averments made in Paragraph 6 of the WP(MD).No.2277 of 2025, I respectfully submit that there are two protection notifications: “(i) Cavern with Panchapandava beds on western slopes of the hills and similar beds behind the Sikkandar Mosque on the top and (ii)Rock-cut cave and inscriptions on the southern side of the Thirupparankundram Rock. These protection notifications declare the entire Thirupparankundram Hillock comprising a total land area of 172.70 acres as protected vide notification No.43 dated 20.02.1923 and No.474 dated 01.09.1908 respectively, under the provisions of the Ancient Monuments Presevation Act, 1904. Copies of the two notifications, dated 20.02.1923 and 01.09.1908 are attached (as Annexure -I and Annexure -II respectively) along with revenue and google maps indicating the protected area and its boundaries (as Annexure-III and IV respectively). It is further stated that after India's independence, a new Act namely the Ancient Monuments and Archaeological Sites and Remains Act 1958 came into force, and now,



provisions of the Act of 1958 shall be applicable on these protected monuments.

5. With regard to the averments made in Paragraph 8 of the WP(MD).No.2277 of 2025, I respectfully submit that there are no religious activities reported in the said two protected monuments as per office records. In general, animal sacrifice is not a practice in mosques or dargah. Therefore, the question of permitting animal sacrifice at Sikkandar Dhargah does not arise, and if it is a practice being followed at this place, it has to be treated as unauthorized and violative of law. It is pertinent to mention herein that the so called 'Sikkandar Badusha Dargah' is mentioned as Sikkandar Mosque in the Gazette Notification placed at Annexure-I. Therefore, conversion of mosque to dargah is also not authorized.”

21. The Dargah Administration has filed a counter in WP(MD).No.2678 of 2025 in Paragraph No.8 has held as follows:

“8. I respectfully submit that the Hazarath Sulthan Sikkandar Badhusha Avuliya Dargah and Mosque has been consistently receiving Muslim devotees from all part of India, who visit to fulfil their spiritual needs and vows. Upon the fulfilment of their prayers, these devotees traditionally stay at the Dargah premises to perform ritual sacrifices of animals (goats and hens), prepare and serve communal feasts and participate in tonsuring ceremonies where they offer their hair as dedication. These practices have been continuously observed without any interruption or dispute for over a century, as evidenced by the local



residents of the Thirupparankundram area. Furthermore, the Hindu community members residing in the foothill area have been actively demonstrating interfaith harmony by assisting in carrying sacrificial animals and transporting cooking materials up the hill. The aforementioned practices and customs have been consistently observed for several generations and continue to be an integral part of the Dargah's religious and cultural heritage. Therefore, the writ petitioner's claims regarding the non-existence of such practices on these premises are categorically false and appear to have been fabricated solely for the purpose of filing this writ petition.”

22. In WP(MD).No.15565 of 2023, the Dargah Administration has filed a counter. Paragraph Nos.6 and 20 are extracted as follows;

“6.... The 8th respondent Jamaath members have traditionally been offering their prayers at the Nellithope, and allegations about them causing hindrance to public movement are frivolous and concocted. In fact, prayers at Nellithoppu have been conducted by the 8th respondent since time immemorial, specifically on two special occasions- Ramzan and Bakrid, known as “Thidal Thozhukai”. Numerous Muslim devotees would participate in these prayers during these occasions. Therefore, the writ petitioner's claims regarding the non-existence of such practices on these premises are categorically denied as false and appear to have been alleged solely for the purpose of filing this writ petition.

20.I respectfully submit that it is pertinent to mention here that the Arulmigu Subramaniya Swamy Temple is located at the foot of the



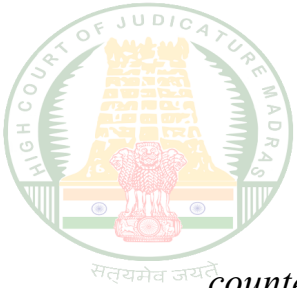
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Thirupparankundram Hill. The Arulmigu Kasi Viswanathar Temple is situated in the middle of the Thirupparankundram Hill particularly on the Northern side. Furthermore, the Dargah is located at the peak of southern side Hill. And, there is approximately one and half kilometers distance from the Nellithoppu area to the Kasi Vishwanathar Temple. From Nellithoppu area, one needs to take a right turn to reach the Dargah. Thus, all three religious institutions are located in separate places without any direct connections to each other. Most devotees visiting the Kasi Vishwanathar Temple use the well-structured steps constructed near the temple. Only a few devotees use the unmaintained steps near the Dargah. Some Hindu devotees who take this route also offer prayers at the Dargah, maintaining social harmony. As a result, they have been no conflicts to date between the communities.....”

(C).Findings and conclusion of the learned Judges:

23.As far as the issue relating to animal sacrifice is concerned, Hon'ble Mrs.Justice J.Nisha Banu has considered the said issue, in which Paragraph Nos. 11 and 14 which are extracted as follows:

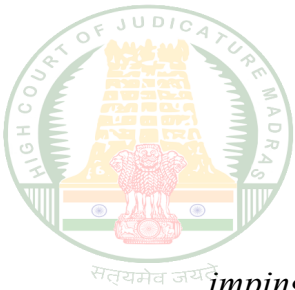
“11. Given that ritual animal sacrifices are traditionally performed in multiple Hindu temples across the Madurai region, a blanket prohibition would amount to discriminatory enforcement. Animal Sacrifice, being an established religious practice, is observed not only in the Dargah but also in several Hindu Temples across the country, and therefore the same cannot be selectively banned. The



counter affidavit filed by the District Collector also corroborates this position. Even the District Collector has referred to the report sent after the Peace Committee Meeting held by the Revenue Divisional Officer on 30.01.2025, which confirms the continuation of the said practice. The relevant portion of the Peace Committee Report is as follows:-

“இந்த தர்காவில் குடும்பமாய் சில மாதங்களுக்கு ஒரு முறையென முறைப்பணி செய்து வருகிறார்கள். இந்த தர்காவிற்கு வருபவர்களின் வேண்டுதல்கள் நிறைவேறும் பட்சத்தில் ஆடு, கோழி பலியிட்டு (கந்தூரி) சமைத்து படையல் இட்டு அனைவருக்கும் பரிமாறி சாப்பிடுவார்கள். இவ்வாறு திருப்பரங்குன்றம் நகரை சேர்ந்த இரு சமூகத்தினருக்கும் ஏற்கனவே உள்ள வழிபாட்டு நடைமுறைகளை தொடர்ந்து பின்பற்றவும். எங்களிடையே இந்த நடைமுறையில் வெளிநபர்கள் யாரும் தலையிட்டு குழப்பம் ஏற்படுத்துவதை அனுமதிக்கமாட்டோம் எனவும், அனைவரும் ஏகமனதாக தெரிவித்துக் கொள்கிறோம்.”

Hence, it is evident that the animal sacrifice in the Dargah located at Thiruparankundram Hills has been prevalent as a religious practice from time immemorial practices not only by Muslims but also by other communities as well. It is also pertinent to note that the Tamil Nadu Animals and Birds Sacrifices Prohibition Act, 1950 was repealed in 2004 by Tamil Nadu Act 20 of 2004. Therefore, as on date, there is no statutory bar against the traditional practice of animal sacrifice at religious places in Tamil Nadu. Moreover, the Dargah is located on the southern side peak of the Thirupparankundram Hill, while the Subramaniya Swamy Temple and Kasi Viswanathar Temple are situated at different locations. Thus, no religious practices of one community



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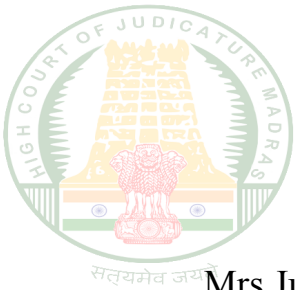
impinge upon the scared spaces of another.”

14. Article 25 of Constitution of India confers the Right to Freedom of Religion which includes "practice", and the same can only be interfered only by a law enacted under sub-clause (2) of Article 25. In the absence of any law prohibiting animal sacrifice, which is a part of religious practice, there cannot be any Order by this Court restraining such activity. Rituals, observances, ceremonies and mode of worship are regarded as integral parts of religion, which will even extend to matters of food and dress and no outside authority has any jurisdiction to interfere with such practices.”

24.As far as the issue relating to naming of Thiruparankundram Hill is concerned, the learned Judge was pleased to decide the issue in Paragraph No.15 which is extracted as follows:

“15. The Thiruparankundram Hill, insofar as the Hindus are concerned and subject to the recognised rights of the Mohammedans, is not vested with any individual or any particular group or association of people, but is vested with Arulmigu Subramaniya Swamy Temple, Thiruparankundram. There is no allegations of violation of the rights of the Temple in respect of the Thiruparankundram Hills, as such rights have been recognised and confirmed by the Civil Courts. Therefore, we find no merit in WP. (MD) Nos. 2277/2025 & 2678/2025.”

25.As far as the prayer in WP(MD).No.15565 of 2023, relating to prohibition of prayer in Nellithoppu area is concerned, the Hon'ble

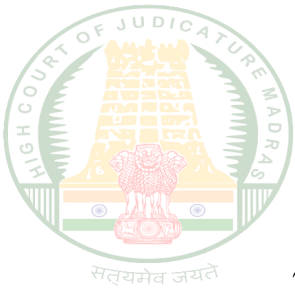


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Mrs.Justice J.Nisha Banu in Paragraph No.10 has held as follows:

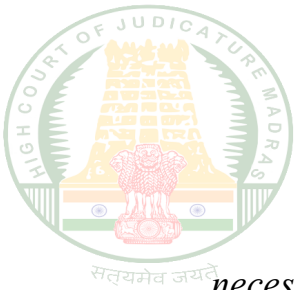
“10. As such, the Civil Courts have determined the rights of the Arulmigu Subramaniya Swamy Temple and the Sikkandar Badhusa Avuliya Dargah, Thiruparankundram, Madurai, which is traceable to the Hindus and the Mohammedans. Therefore, there is no issue regarding the location of the places of worship, the associated revenue or the right of access belonging to both the religions in Thiruparankundram Hill. Since the matter has attained finality during the earlier years of the past century, this Court is not inclined to interfere with the same, with a view to preserve interfaith peace and amity, safeguarding secular coexistence and also to uphold the spirit of religious tolerance and unity among the people of the State. In view of the specific findings rendered to the rights of the Mohammedans in Nellitope, as reflected in the Judgement and Decree of the Trial of the Court in O.S.No.4 of 1920 of the 1st Additional Subordinate Judge, dated 25.08.1923 and also in E.P.No.163 of 1962 dated 24.04.1965 of the Subordinate Judge, Madurai, W.P.(MD)No.15565 of 2023 is liable to be dismissed.”



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26.As far as the issue relating to conduct of prayer in Nellithoppu area which is sought to be prohibited in WP(MD).No.15565 of 2023 is concerned, the Hon'ble Mrs.Justice S.Srimathy in paragraph No.28 has held as follows:

“28.The prayer in W.P.(MD)No.15565 of 2023 is for direction to respondents 1 to 7 to take action against 8th respondent not to conduct prayer or any other gathering in Neelithope at Arulmigu Subramaniaswamy Temple. At the time of admission, the Court had granted interim direction to file a report. The temple had filed a report stating that on 22.04.2023 a prayer was conducted for Ramzan and on 29.06.2023 a prayer was conducted for Bakrith, but there was no practice to the said effect from time immemorial and it is done in recent years. In the written submission of the temple, it has been stated that police protection was granted by the police on 29.06.2023 to the temple, foot hill and Nellithope. The temple staffs were on duty to ensure there is no hindrance caused to the general public in the pathway and accordingly around 8.55 am to 9.40 am totally 113 Muslims participated in the prayer, in which 13 persons belong to Bihar as per police information and the prayer was conducted on the same date and completed. From this it is evident that prayer will not be conducted during Ramzan or Bakrith and it was newly started practice. Further it is seen from the pleadings and the photos produced before this Court that there is no space for conducting prayer with lakhs and lakhs of people, hardly 100 or so people can be accommodated in the place. If lakhs and lakhs of people are coming (as claimed by the dargah) then



necessarily the prayer would be conducted by occupying the pathway which leads to Kasi Viswanathar temple and also by occupying other places belonging to the temple, which will definitely lead to breaching the decree granted in O.S.No.4 of 1920. Therefore, this Court is of the considered opinion that the dargah was not having any such practice to conduct any prayer during Ramzan, Bakrith or any other Islamic festival in the dargah. And it is a new practice and the same cannot be allowed. Consequently the writ petition is allowed.”

27.As far the issue relating to animal sacrifice is concerned, the Hon'ble Mrs.Justice S.Srimathy in Paragraph No.30 has held as follows:

“30. As far as the animal sacrifice is concerned the claim of the dargah is that the Kandoori is a form of animal sacrifice which practice is being conducted for long time. But it is the claim of the temple and the petitioners that no such practice was followed at all. In order to consider this issue, it is relevant to peruse the pleadings of the petitioners and the counters filed by the respondents. The affidavit filed by the petitioner states that no such practice was followed at all. The counter affidavit filed by the dargah in W.P.(MD)No.2277 of 2025 states that there were objections for such Kandoori animal sacrifice. Further the Santhanakkoodu festival for the year 2024 was scheduled on 01.01.2025. Hence a peace committee meeting was called for, even though the notice states that peace committee meeting is for Santhanakkoodu festival, the Kandoori animal sacrifice was also raised, hence the dargah people boycotted the meeting. The RDO had taken the

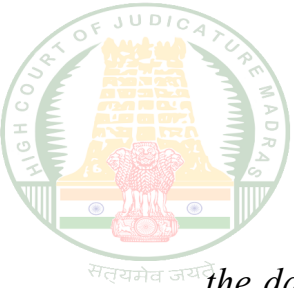


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submissions of the temple as well as the other interested persons and held that there is no documentary evidence that Kandoori animal sacrifice was carried on in the Nellithope and had passed an order directing the dargah to approach the civil court for the remedy. If the dargah had followed the practice of Kandoori animal sacrifice there will be some evidence to prove the same. The dargah had not produced any evidence. Interestingly the counter filed by the Commissioner of Police and the District Collector (which is replica), states that the Kandoori animal sacrifice was followed, the skinning and dressing was done by one Paramasivam. The said Paramasivam's father was doing the skinning and dressing for very long years, followed by Paramasivam and they would do the skinning and dressing for Kandoori animal sacrifice also. If that is so, then the same ought to be considered by letting in evidence, the Paramasivam ought to be produced as witness. In such circumstances, the Court is of the considered opinion that the RDO is right in coming to conclusion that the parties ought to approach Civil Court to establish whether Kandoori animal sacrifice was an established practice in Sikkandar Dargah."

28.As far as naming of Thiruparankundram Hill is concerned, Mrs.Justice S.Srimathy in Paragraph No.29 has held as follows:

"29. The prayer in W.P.(MD)No.2277 of 2025 and the prayer in W.P.(MD)No.2678 of 2025 are similar and both prayers to prevent animal sacrifice. In addition the W.P.(MD)No.2678 of 2025 prayers that



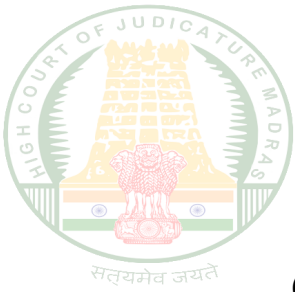
W.P.(MD)Nos.2678 of 2025 and batch

*the dargah cannot change the name of the hill as Sikkandar Malai. As far as the claim as Sikkandar Malai, it is seen in the O.S.No.4 of 1920 the Court had categorically held that the name of the hill as “Tiruparankundram Hill”. All the revenue records are in the name of “Tiruparankundram Hill”. When the hill is named as “Tiruparankundram Hill”, some persons claiming themselves as “Madurai Muslim United Jamath and Political Party Organisation” had issued a pamphlet that they are going to conduct feast in “Madurai Tiruparankundram **Sikkandar Malai** Hazarth Sikkandar Badusha Pallivasal”. The pamphlet is extracted hereunder:*



The said pamphlet is definitely mischievous and an attempt to change the name of the Tiruparankundram Hill."

29. In view of divergent of opinion between two learned Judges, these three writ petitions are placed before me by the orders of the Hon'ble Chief Justice.



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(D).The issues that arise for consideration are as follows:

30.As per Clause 36 of Letter Patent, if the opinion of the Judges are divided, they have to set the point upon which they differ and the case has to be heard upon that point by the other Judge. However, in the present case, no specific point on which differences has arisen, has been pointed out by the learned Judges of the Hon'ble Division Bench.

31.When the writ petitions were listed before me, I have pointed out the said fact to the learned counsels appearing on either side. However, the differences which emanate from the discussion and conclusions reached by both learned Judges are being culled out as follows:

a)Whether animal sacrifice (Kandoori) is being practiced from time immemorial in Sikkandar Badhusha Avuliya Dargah, Thirupparankundram Madurai.?

b) Whether the said practice is an essential practice of Mohammedan religion and it is protected under Article 25 of the Constitution of India?

c)Whether a direction can be issued to the Revenue and Police Officials to initiate appropriate action to prevent calling Thiruparankundram Hillock as Sikkandar Hillock?



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d)Whether the Dhargah Administration or any other individual can be permitted to conduct prayer or gathering at Nellithoppu area which is located enroute to Sikkandar Dhargah, located on the top of the hill?

(E).Submissions made by the learned counsels are as follows:

32. The learned counsel appearing for the petitioner in WP(MD).No. 2277 of 2025 submitted as follows:

33.Thiruparankundram Temple is a rock-cut cave temple and therefore, the idols cannot be segregated from the whole of the hill. The entire hill is considered to be a sacred hill and it is worshiped as a Linga. There is a customary practice from time immemorial to perform Girivalam around the hillock. The Civil Court in O.S.No.4 of 1920 on the file of the I Additional Subordinate Court, Madurai has already upheld that the entire hillock except Nellithoppu area and the Dhargah area belong to the temple. There is no reference about any animal sacrifice being performed in the said judgment. That apart, Kasi Vishwanathar Temple is also located on the top of the hill. Both Thiruparankundram Temple as well as Kasi Vishwanathar Temple are Agama temple. There is no evidence whatsoever for the performance of animal sacrifice at any point of time. In case, if a customary practice is pleaded by the Dhargah Administration, it is for them to

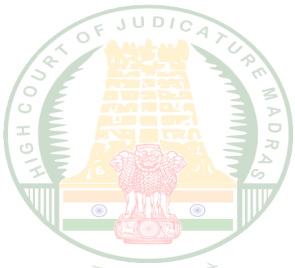


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establish the same before the competent civil Court. Without establishing their rights, performance of animal sacrifice would affect the sentiments of lakh and lakhs of Hindus who are offering their prayers in Kasi Vishwanathar Temple and Arulmighu Subramaniaswami Temple.

34. The learned counsel for the petitioner in WP(MD).No.2277 of 2025 had further submitted that merely because title has been declared with regard to certain places in Thiruparankundram hillock, that will not confer any right to perform animal sacrifice or take non-vegetarian food which would be in violation of sacredness of the whole of the hillock. There are several litigations between the temple and the Dhargah Administration in the past. However, there is no reference of any animal sacrifice in those litigations. The practice of animal sacrifice was started only in the year 2024 and immediately, it was objected to by the temple administration as well as by Hindu devotees.

35. The learned counsel for the petitioner had further submitted that even as per the counter filed by the Dhargah Administration, they are claiming right to conduct animal sacrifice only on the basis of customary practice. According to the said counter, both Hindus and Muslims are performing animal sacrifice. Therefore, the issue of invoking Article 25 or 26 of the Constitution of India would not arise. He had further submitted that in the Peace Committee



W.P.(MD)Nos.2678 of 2025 and batch

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Meeting conducted by the Revenue Divisional Officer on 31.12.2024, the trustees of Dhargah as well as the Executive Officer of the temple have participated. In the said meeting, it was agreed that both the parties would approach the competent Court to redress their grievance. However, in violation of the said arrangement, advertisements were made by Dhargah Administration that they are going to conduct animal sacrifice on top of the hill in the Dhargah premises.

36.The learned counsel for the petitioner further submitted that a second Peace Committee Meeting is said to have been conducted on 30.01.2025 for which neither the temple administration nor the Dhargah Administration were invited. Only the political parties have participated in the said meeting. Only due to the intervention of these political parties, in violation of the previous agreement entered into between the parties to the litigation, the present dispute has arisen.

37.The learned counsel appearing for the petitioner in WP(MD).No. 2277 of 2025 had placed reliance upon various provisions of Prevention of Cruelty to Animals Act, 1960 and contended that the animal sacrifice is clearly prohibited, even if it is for religious purposes unless prior permission is taken from the concerned authority. In the present case, admittedly, no such permission

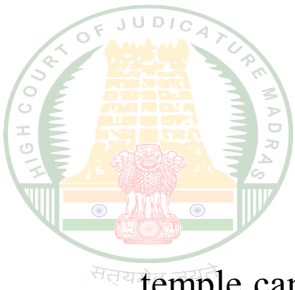


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has been obtained. He further relied upon the notification issued by Archaeological Survey of India and contended that the entire hillock has been declared to be a protected monument. In such circumstances, unless proper permission is obtained from the concerned authority, any religious practice cannot be permitted, that too animal sacrifice.

38.The learned counsel for the petitioner further submitted that various official records and revenue records clearly reveal that the hillock is being named and called as Thiruparankundran hillock from time immemorial. At no point of time, the hillock was called as Sikkandar Malai. Only recently some elements have started calling the hillock as Sikkandar Mamalai in order to create communal disharmony. Girivalam is being performed on all full moon days. In such circumstances, any attempt to rename Thiruparankundram hillock as Sikkandar Malai would only cause communal disharmony. He also relied upon the judgment of the civil Court in O.S.No.4 of 1920 wherein there is no reference about the name of hill as Sikkandar Malai. He also relied upon various academic articles to contend that let the hillock continue to be called as Thiruparankundram hillock and there is no animal sacrifice.

39.The learned counsel for the petitioner had further submitted that each temple follow their own agamas, tradition and customs. Therefore, one

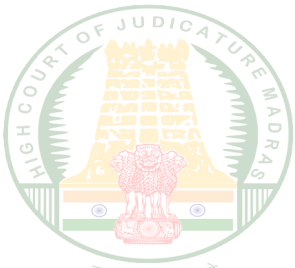


temple cannot be compared with the other temple for justifying animal sacrifice.

If the Dhargah Administration insisted that animal sacrifice is being performed as a customary practice from time immemorial, it is for them to establish the same before the competent civil Court. He had further submitted that, apart from Hindu temples and the Dhargah, Jain caves are also located in the same hillock. In such circumstances, permitting animal sacrifice would hurt the sentiments of the Jains also. According to him, the Jain caves have been declared to be protected monuments under Archaeological Survey of India Act.

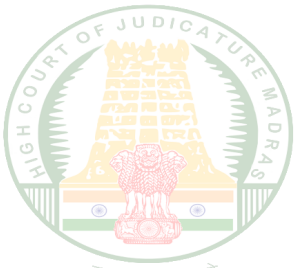
40.The learned counsel for the petitioner had further submitted that the traditional pathway starting from Palani Andavar Temple leads to Nellithoppu area. From Nellithoppu, by taking a diversion, the devotees reach the Kasi Vishwanathar Temple. During festival days, 'Vel' is being carried by the temple administration through the traditional footsteps to Kasi Vishwanathar Temple for dipping in the holy water found in the Theertham. In such circumstances, Nellithoppu area cannot be claimed to be an exclusive area belonging to the Dhargah administration.

41.The learned counsel for the petitioner had further submitted that the temple has been vigilant on all occasions. Whenever new practices were started, they have been stoutly opposed by the temple. In case, if the animal sacrifice had



started at an earlier point of time, it would have been certainly objected by the temple administration. He had further submitted that animal sacrifice is being followed only in some Dhargah/Mosques. Therefore, the same cannot be considered to be an essential part of the Mohammedan religion. In such circumstances, any prohibition or prevention of animal sacrifice in the sacred hillock of Thiruparankundram Temple would not in any way affect the religious practices of Mohammedans. He also extensively relied upon various provisions of Ancient Monuments and Archaeological Sites and Remains Act 1958 to contend the access to the Nellithoppu area as well as Jain bed and Panchapandava caves are under the control of ASI Department. The Act also prohibits cooking or serving of food in the protected monuments area. Therefore, the contention of the Dhargah authorities that they can perform animal sacrifice over the hill is not legally sustainable.

42.The learned counsel for the petitioner would also rely upon various decision of the Hon'ble Supreme Court wherein the ban on animal sacrifice were upheld. He relied upon the judgments reported in **2019 SCC Online Tri 441** (Subhas Bhattacharjee Vs.State of Tripura), **1994 (6) SCC 360** (Dr.M.Ismail Faruqui & others Vs. Union of India), **2002 (8) SCC 106** (N. Adithayan v. Travancore Devaswom Board & others), **AIR 1958 SC 731** (Mohd.Hanif



Quareshi & others Vs. State of Bihar & others) in support of his contentions.

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43.The learned Senior Counsel appearing for the petitioner in WP(MD).No.2678 of 2025 Mr.G.Karthikeyan submitted that out of entire 728 acres of hillock, only 33 cents have been allotted to the Muslims as per the judgment of the Civil Court in O.S.No.4 of 1920. He heavily relied upon various paragraphs of the Civil Court judgment and contended that the entire hillock is worshiped as a Siva Linga and it is rock-cut temple. He further submitted that Girivalam is being performed around the hill. He further submitted that the temple is 2500 years old and the Jain caves belongs to 8th century. However, the Mosque was constructed is only of the 14th century. In such circumstances, they cannot claim that the name of the hill has to be altered as Sikkandar Hill.

44. The learned Senior Counsel appearing for the petitioner in WP(MD).No.2678 of 2025 had further submitted that as far as the animal sacrifice is concerned, the HR & CE department in their counter has specifically pointed out that no such practice is being performed for so many years. A new practice is sought to be introduced. In such circumstances, an attempt is being made, recently, in order to desecrate the holiness of the entire hill. He had further submitted that the Revenue as well as the Police Officials have heavily relied upon the statement of Mr.S.Paramasivam. Even according to him, he has not



performed the skinning of goat in the Dhargah premises. The said statement does not have any evidentiary value whatsoever. The persons claiming animal sacrifice as a customary practice, has to approach the competent Civil Court and establish their right. Therefore, the evidence of said Paramasivam cannot be relied upon for desecrating the holiness of the hill.

45.The learned Senior Counsel appearing for the petitioner in WP(MD).No.2678 of 2025 further submitted that as far as the performance of a animal sacrifice by Mohammedans are concerned, they have to follow practice of Halal. Even as per the counter filed by the Revenue Officials, the animal sacrifice is said to be conducted by certain Hindus and therefore, even assuming that such a practice is prevalent that is against the principles of Islam. He relied upon Paragraph Nos. 13, 16, 19 and 21 of the competent Civil Court judgment in O.S.No.4 of 1920. He also relied upon the various paragraphs of the Privy Council which was confirmed by the order of the Civil Court in O.S.No.4 of 1920.

46.The learned counsel for the Temple Administration Mr.S.Manohar had submitted that the area over the hill has already been demarcated in the execution proceedings and the area of Mosque and Nellithoppu have been demarcated. When the Dhargah administration pleads animal sacrifice as a

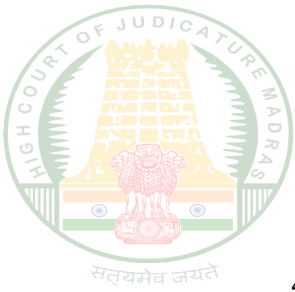


W.P.(MD)Nos.2678 of 2025 and batch

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customary practice, the entire burden would be upon them to establish the same and therefore, it can be done only before the competent civil Court. The Dhargah administration cannot make an attempt to establish their customary rights in the writ petition filed under Article 226 of Constitution of India. As per the judgment of the Civil Court, the entire hillock is vested with the temple except two pockets for which title has been declared in favour of the Mohammedans. Whenever, any attempt was made by the Dhargah Administration or Mohammedans with regard to desecrating hillock, objections have been raised by the Grama Sabai of that locality. Temple has also continuously given complaint to the District Collector as well the Police authorities. He had further submitted that for the second Peace Committee Meeting that was conducted on 30.01.2025, the trustees or the Executive Officer of the temple were not invited.

47.The learned counsel appearing for the temple Mr.S.Manohar had further submitted that when the entire hillock is vested with the temple as per the judgment of the civil Court and the same is considered to be a sacred hill and worshipped by Hindus in the form of Linga, it can never be called or named as Sikkandar Malai in the name of a Mohammedan Saint. He relied upon various paragraphs in the judgment of the civil Court.



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48.The learned counsel appearing for the temple namely Mr.S.Manohar had further submitted that as far as Nellithoppu area is concerned, there is no Mosque or Dhargah, only a temporary tin shed is available in order to protect some tombs of the Mohammedans. Therefore, the practice of offering prayers there, cannot be considered to be a regular practice. In fact, there are no records to show that such kind of prayers were offered at any point of time. When animal sacrifice is permitted, there is likelihood of some miscreants taking large number of goats or the hens and desecrate the holiness of the hillock.

49.The learned Senior Counsel Mr.R.Shanmuga Sundaram who appeared on behalf of the Commissioner of Hindu Religious and Charitable Endowment Department relied upon Paragraph No.22 of the counter and submitted that the temple is not having any records to either support or deny the averments. He further submitted that they have nothing to say on the religious practices of offering being done inside the Dharga and the same is not within their knowledge.

50.The learned Additional Advocate General Mr.Veera.Kathiravan who appeared for the Police Officials, placing reliance upon the decree of the Civil Court submitted that only up to Giriveethi, the temple has got control. Whether there was any animal sacrifice being performed in the Dhargah premises, it is a



question of fact and the same cannot be decided in the writ petition. He further submitted that the Public Interest Litigation is not maintainable, in view of the fact that the petitioner does not have any *locus standi*. He further stated that the local people are living in harmony and only some political organisations having some vested interest are interfering and causing disturbance to the harmony. He extensively relied upon the findings of the Hon'ble Mrs. Justice J.Nisha Banu and contended that the other community people are also taking part in the animal sacrifice. In such circumstances, the harmony may not be disturbed.

51.The learned Additional Advocate General Mr.Veera.Kathiravan had further submitted that when two portions over the Hill have been declared to be the property of the Dharga, the manner of usage cannot be restricted at the whims and fancies of certain political organisations. Once the title is declared the usage should be left to the owners unless it infringes upon the rights of the neighbouring owners. He also relied upon a decision of the Hon'ble Supreme Court reported in **(2025) SCC Online SC 447 (A.P Electrical Equipment Corporation Vs. Tahsildar and others)** especially Paragraph Nos. 51 and 52 in support of his contentions.

52.The learned Additional Advocate General Mr.J.Ravindran who appeared for the Revenue Department submitted that the issue should be looked



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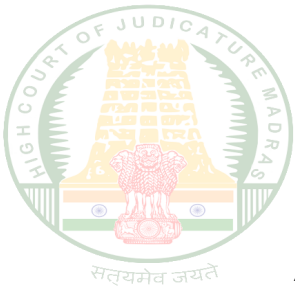
into from the point of secularism. He heavily relied upon the Holy Quran and submitted that the animal sacrifice is a well established religious practice among the Muslims. There are records to show that animal sacrifice is being conducted as a customary practice in the Dhargah premises from time immemorial. The statement of one Mr.Paramasivam given to the Judicial Magistrate would clearly reveal that such practice is being prevalent for so many number of years. According to him, law and order problem is being created by vested interest when the people in the said locality by living in harmony. He further submitted that the above said particular religious practice has to be regulated by the devotees of that particular religion alone. The temple administration or the devotees cannot attempt to regulate the religious practice of Mohammedans which can be regulated only the Dhargah Administration.

53.The learned Additional Advocate General Mr.J.Ravindran had further submitted that the rights of the parties have got crystallized under the Civil Court decree in O.S.No.4 of 1920. The entire discretion is vested with the owners of Nellithoppu as well as the Dhargah to decide how to enjoy their properties. However, the said enjoyment would be subject to the restriction imposed under Article 25 of the Constitution of India. When the local people are living in harmony, any attempt made to interfere in the said process, would only



open Pandora's Box and it will have serious consequences. If people from one religion are permitted to decide upon the religious practice of other religion, it will destroy religious harmony. The customary practices followed by one religion has to be respected by other religion. There is no necessity to prove the customs when the same is especially prevalent for so many number of years. If any dispute is raised, it is for the persons who are raising objection to the customary practice, to approach the competent civil Court.

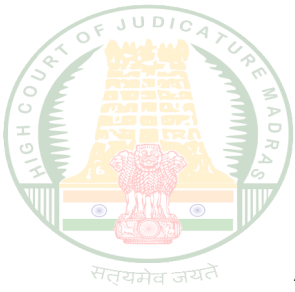
54.The learned Additional Advocate General Mr.J.Ravindran had further submitted that when Nellithoppu area has been declared to be the property of Mohammedans, whether prayers should be conducted in the said area or not cannot be objected to by the Hindu devotees. As far as naming of the hillock is concerned, he relied upon the UDR FMB sketch and contended that there is a reference that the hillock is being referred as a Sikkandar Malai in the said UDR proceedings. The naming of hill or hillock is within the domain of executive and others cannot interfere in the naming of the said hillock. As an age old custom, the Mohammedans refer the said hillock as a Sikkandar Malai and other used to call as Thiruparankundram Hillock. In such circumstances, the Court may not interfere in the religious choices exercised by the respective devotees in naming the hillock.



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55.The learned Additional Advocate General Mr.J.Ravindran had further submitted that the Executive Officer of the Hindu Religious and Charitable Endowment Department can only make his submission with regard to the temple or the properties under his control. As far as Nellithoppu area or the Dhargah located on the top of the hill is concerned, they are not within his administration. In such circumstances, he cannot assert anything upon the prayer or practices that are being followed in Nellithoppu or in the Dhargah. He also relied upon the decision of the Hon'ble Supreme Court reported in **(1954) 1 SCC 412** (*The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt.*), **AIR 1963 SC 1638** (*Tilkayat Shri Govindlalji Maharaj etc. v.State of Rajasthan & others*), **2024 SCC Online Bom 1697** (*Hajrat Peer Malik Rehan Mira Saheb Dargah v. State of Maharashtra & others*), **2004 (12) SCC 770** (*Commissioner of Police Vs.Acharya Jagadishwarananda Avadhuta & others*) in support of his contentions.

56.The learned Additional Solicitor General of India who appeared for the Archaeological Survey of India primarily relied upon The Ancient Monuments and Archaeological Sites and Remains Act, 1958 and made his submissions as follows:



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57.The learned Additional Solicitor General of India had relied upon Paragraph No.4 of the counter and submitted that two notifications have been issued by the Archaeological Survey of India Department on 01.09.1908 and 20.02.1923 under the provisions of The Ancient Monuments Preservation Act, 1904. Under the said notification, the entire Thiruparankundram Hillock comprising a total land area of 172.70 acres have been declared to be a protected monuments. He relied upon Section 19 of 1958 Act and contended that even assuming that the Mohammedans are having property rights over Nellithoppu as well as Dhargah, their right to utilize the said area is restricted and it is only with the prior permission of the Central Government any practice can be followed. He also relied upon Section 20-A of the Act which deals with prohibition area and carrying out of public works or other works in the prohibited area. He also relied upon Section 20-B of the Act and contended that as far as regulated area of every protected monuments is concerned, up to 200 meters, the area is regulated.

58.The learned Additional Solicitor General of India, relying upon Paragraph No.5 of the counter and submitted that no religious activities are reported in the protected monuments as per the official records. He further submitted that animal sacrifice is not a practice in Mosque or Dhargah. Therefore, the question of practicing animal sacrifice at Sikkandar Dhargah does



W.P.(MD)Nos.2678 of 2025 and batch

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not arise and if it is a practice being followed at this place, it has to be treated as unauthorized and violative of ASI Act. He also relied upon Paragraph No.12 of the counter and submitted that the entire hillock is under the jurisdiction of Archaeological Survey of India and it should be maintained as a centrally protected monument in accordance with law. He further submitted that even if it is a religious practice when the same is prohibited under Archaeological Survey of India Act, the right of enjoyment of the owners of the building is restricted.

59.The learned Additional Solicitor General of India had further submitted that the decision reported in **2024 SCC Online Bom 1697** is on the basis of a State Act and therefore, the facts of the said case are not applicable to the present case. He further submitted that the ASI authorities have lodged a police complaint with regard to the defacing of the Jain caves using green paint and every steps have been taken in order to protect the Jain caves and the Pancha Pandava beds.

60.Per contra, the learned counsel Mr.S.Vanchinathan appearing for the 6th respondent / Dhargah in WP(MD).No.2678 of 2025 has submitted that the petitioner cannot interfere in the religious practices of the Dhargah under the guise of its being a Saiva Agama Temple. The Constitutional Guarantees under Article 25 of the Constitution of India assure every individual, his right to freely

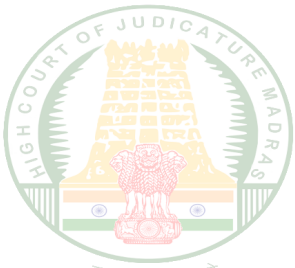


W.P.(MD)Nos.2678 of 2025 and batch

profess, practice and propagate religion subject to public order, morality and health. According to him, the writ petitioner has nowhere stated that the practices in the Dargha would affect the public order, morality and health.

61.The learned counsel Mr.S.Vanchinathan further relied upon the judgment of the Hon'ble Supreme Court reported in *AIR 1954 SC 282 (Commissioner, Hindu Religious Endowments, Madras Vs.Sri Lakshmindra Thirtha Swamyar of Shirur Mutt)* and submitted that the State cannot regulate or interfere with the essential religious practices or impose restrictions that infringe upon the constitutional religious rights.

62.The learned counsel appearing for the Dhargah Administration in WP(MD).No.2678 of 2025 had further submitted that as a religious denomination, they have their right to manage and conduct essential religious practices without being interfered by others. The State can only regulate secular activities and cannot intrude into their core religious rituals. According to him, the performance of Kandoori, Sandana Koodu Festival, communal treat and related rituals, are being continued uninterrupted for several generations and therefore, there are essential religious practices and protected under Article 25 of the Constitution of India. He had further submitted that when the Islamic religious, traditions and jurisprudence govern the form of worship and ritual



practices at the Dhargah, the same cannot be adjudicated or altered by reference to Saiva Agama scriptures or any other religious texts that are alien to the faith of Mohammedans. The sanctity or sinfulness of an act in Islam is defined by Islamic law and the same cannot be counted by relying upon Hindu or other religious code.

63.The learned counsel for the Dhargah Administration had further submitted that neither in the 1923 decree nor in any subsequent judgment, any condition has been imposed that the religious usage, rituals or practices of the Dhargah are subject to the consent or control of the temple. Therefore, it is clear that the Courts have recognized autonomous rights of the Dhargah over their property and freedom to practice their faith accordingly.

64.The learned counsel for the Dhargah Administration in WP(MD).No.2678 of 2025 had further submitted that the writ petitioner has failed to provide any documentary or substantive evidence to support that the hillock is called only as Thiruparankundram hillock. Instead there are several evidences, survey maps and Court judgments that affirm that the area is also known as Sikkandar Malai where the Dhargah stands and it has been historically recognized as such. According to him, the local residents have testified to the uninterrupted observance of rituals and peaceful communal harmony across



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religious boundaries. He further submitted that the revenue records as well as the judicial orders referred to the Hillock as Sikkandar Malai. In the judgment in O.S.No.4 of 1920, there is a reference that the area was called as Sikkandar Malai after Fakir Sikkandar was buried on the hilltop. He also relied upon the Survey of India Maps from 1886 which identified the hillock as Sikkandar Malai. He relied upon certain publications and PhD thesis of Madurai Kamaraj University which had acknowledged the dual nomenclature of naming the hillock as Thiruparankundram hillock as well as Sikkandar Malai.

65.The learned counsel for the Dhargah Administration had further submitted that the declaration relief seeking pronouncements on religious practices or rights cannot be sought for invoking Article 226 of Constitution of India, unless fundamental rights were violated or legal injuries requiring immediate judicial intervention is involved. Since no such violation or urgency has been established, the petitioner cannot maintain such declaratory claims in the declaratory writ petition. The entire onus is upon the petitioner to establish that the Dhargah practices violate any constitutional or legal provision. As per Section 101 of Evidence Act, the burden is upon the person who asserts a particular fact. In such circumstances, the writ petitioner cannot shift the burden upon the Dhargah Administration and can be directed to file a civil suit to



W.P.(MD)Nos.2678 of 2025 and batch

establish their customary practices.

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66.The Tamil Nadu Waqf Board had filed WMP(MD).No.7865 of 2025 in WP(MD).No.2277 of 2025 seeking to implead themselves.

67.The learned Counsel appearing for the Wakf Board submitted that the animal sacrifice is being performed as a matter of customary practice from time immemorial. According to him, when the area have already been demarcated between the temple and Dhargah Administration, the temple or devotees of the said temple cannot raise any objection to the practices/religious practices that are being performed in the property that is declared in favour of the Mohammedans. He also relied upon the proforma of the concerned Dhargah which is endorsed by the Wakf Board. He relied upon a statement of one Mr.Paramasivam recorded under Section 164 Cr.P.C, to impress upon the Court that the practice of animal sacrifice is being prevalent for so many number of years and it is a customary practice.

68.The learned counsel appearing for the Wakf Board had further submitted that Section 19 of the ASI Act deals only with protected monuments. Therefore, the same is not applicable to the facts of the present case. According to him, many Dhargahs follow the practice of animal sacrifice. He had further submitted that in case of animal sacrifice, the principle of Halal has to be



followed. He had further pointed out that the Eid prayer is being performed for many years in Nellithoppu area. He had further contended that naming of hillock is not issuing at all and it does not matter whether it is called as Thiruparankundram Hill or Sikkandar Malai.

69.The learned Senior Counsel Mr.Isaac Mohanlal appearing for the Dhargah Administration in WP(MD).No.2277 of 2025 has taken me through the pleadings, prayers and findings in the Civil Suit in O.S.No.4 of 1920. He specifically relied upon Paragraph No.39 of the said judgment and pointed out that the hillock is also called as Sikkandar Malai as referred in the Survey Plan of the year 1886. He further relied upon Paragraph No.40 of the said judgment and contended that the title of Mohammedans with regard to Nellithoppu has been declared by the Civil Court. He relied upon Paragraph No.41 of the said judgment wherein the space from Nelithoppu up to Mosque was declared to be that of Mohammedans. He relied upon Paragraph No.10 of the Privy Council judgment reported in **AIR 1931 PC 212** (*Thirupparankundram Etc. Vs. Alikkhan Sahib and others*). He also relied upon the Privy Council Judgment to contend that when the property rights of the parties have already got crystallized, thereafter, the temple cannot interfere in the rituals or customary practices which are followed by the Dhargah Administration. He relied upon various Photographs



W.P.(MD)Nos.2678 of 2025 and batch

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in order to impress upon the Court that the practice of animal sacrifice is being prevalent in the Dhargah premises for so many number of years in which Hindus have also participated. In order to preserve the religious harmony of the locality, he submitted that when both the Hindus as well as Muslims are performing animal sacrifice without any objection from each other. The same should be permitted to continue. Merely because some vested interest persons having some political leniency have objected to the performance of animal sacrifice, the same cannot be prevented. He had further submitted that, if at all the petitioners have got any grievance over the animal sacrifice, it is for them to approach the competent civil Court.

70.An Impleading Petition has been filed in WMP(MD).No.14727 of 2025 in WP(MD).No.2277 of 2025 to implead one P.Ramalingam. He was represented by the learned Senior Counsel Mr.T.Lajapathy Roy. He relied upon 'Islamic Architecture in Tamil Nadu' which was a book published by the Government Museum in Chennai and submitted that the Dhargah was constructed in the 14th century and the annexures were put up in the 18th century. He further submitted that there is a reference of Thiruparankundram as Sikkandar Malai in the book written by J.H.Nelson former Collector of Madurai in his Madura Manual published in 1868 and subsequently by another Collector



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71.The learned Senior Counsel Mr.T.Lajapathy Roy had further submitted that the prayer of the writ petitioner not to sacrifice animals at the Dhargah site is mischievous and politically motivated. He relied upon the decisions of the Hon'ble Supreme Court reported in **2025 5 SCC 53** (*Anjumkadari and another Vs. Union of India and others*) and **(2018) 8 SCC 501** (*State (NCT of Delhi) Vs.Union of India*). According to him, for several decades, the practice of animal sacrifice and religious harmony is prevailing among the Hindu shrine, Islamic Dhargah and Mosque and it may not be unsettled by the judicial pronouncements in the Public Interest Litigations. In this case, the writ petition is not maintainable and the same has to be adjudicated upon only by a competent Civil Court. According to him, apart from historical aspects, the Dhargah of Madurai and surrounding area have lots of cultural impact of the majority religion in and around Madurai City and the Madurai has a history of peaceful co-existence of Hindu Muslims and Christians for the last few hundred years. In such circumstances, any order passed by this Court should not disturb the said religious harmony.

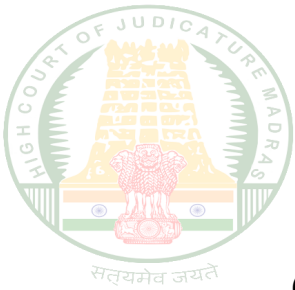
72.The learned counsel appearing for the petitioner in WP(MD).No. 15565 of 2023 Mr.Niranjan S.Kumar submitted that in the Nellithoppu there are



only tombs and there are no covered places. There is no Dhargah in the Nelithoppu area. He had further submitted that in the counter filed by Archaeological Survey of India Department, they have specifically pointed out that it falls within their domain and therefore, prayers cannot be permitted to be conducted. He had further submitted that in the Peace Committee Meeting that was conducted on 22.06.2023, it was agreed that they would conduct the prayers within the area for which title has been declared without disturbing the ingress and egress of the devotees to Kasi Vishwanathar Temple. However, in violation of the said Peace Committee Meeting, the crowd spills over to the traditional footsteps which lead to Kasi Vishwanathar Temple also.

73.The Mohammedans who were offering prayers are polluting the said area with Nov-vegetarian food, plastic etc. Hence, he has prayed for a mandamus not to permit offering of prayers at Nellithoppu area which has been started as a new practice. He also relied upon the judgment of the Civil Court to contend that the traditional footsteps have been declared to be the property of the temple which cannot be polluted at the time of offering prayers.

74.Heard the counsels appearing on either side and perused the judgment of both the learned Judges and records produced by both parties.



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W.P.(MD)Nos.2678 of 2025 and batch

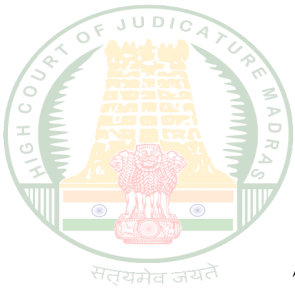
(F)Analysis:

(I).Name of the Hillock (Issue No.'c'):

75.WP(MD).No.2678 of 2025 has been filed seeking a mandamus to prohibit calling Thiruparankundram Hillock as Sikkandar Malai.

76.As far as this prayer is concerned, Hon'ble Mrs.Justice J.Nisha Banu in Paragraph No.15 of her order, has pointed out that Thiruparankundram Hill, insofar as the Hindus are concerned and subject to the recognised rights of the Mohammedans, is not vested with any individual or any particular group or association of people, but it is vested with Arulmigu Subramaniaswamy Temple, Thiruparankundram. Since there is no allegation of violation of rights of the temple in respect of Thiruparankundram Hill and there are no records, has proceeded to dismiss WP(MD).No.2678 of 2025.

77.On the other hand, the Hon'ble Mrs.Justice S.Srimathy has preferred to take a different view and relied upon the Civil Court judgment and decree in O.S.No.4 of 1920 wherein the name of the hillock has been mentioned as Thiruparankundram Hill. According to Hon'ble Mrs.Justice S.Srimathy, the revenue records reflect the name of the hill as Thiruparankundram Hill and therefore, calling the said hill as Sikkandar Malai is definitely mischievous and it is an attempt to change the name of Thiruparankundram Hillock.



W.P.(MD)Nos.2678 of 2025 and batch

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78.I am inclined to concur with the views of the Hon'ble Mrs.Justice S.Srimathy for the following reasons:

a)A Gazette notification has been issued on 29.07.1908 by Archeological Survey of India Under Section 3(1) of the Ancient Monuments Preservation Act 1904 declaring rock-cut caves and inscription on the southern side of Thiruparankundram rock (indicating that Sri.Meenakshi Amman Temple Devasthanam is the owner) as a protected monument. The extent of the said monument is 50 cents. Another Notification was issued by the Archaeological Survey of India on 07.02.1923 wherein cavern with Pancha Pandava beds on the western slope of the hills and similar beds behind the Sikkandar Mosque on the top of Thiruparankundram Hill were declared to be protected monuments under the same provisions of the Act. The extent, including Natham land was shown as 172.2 acres. These two notifications clearly indicate the presence of Sikkandar Mosque and the name of the hill as Thiruparankundram rock. There is no reference about the Thirupparankundram Hill as Sikkandar Malai.

b) Referring to a representation of Akthar and the survey



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plan of the year 1886, the Civil Court in its decision in Paragraph No.39 in O.S.No.4 of 1920 refers to the fact that the hillock was called as a Sikkandar Malai for over a century. A perusal of the decree of the Civil Court reveals that Nellithoppu area is having an extent of just 33 cents and the Dhargah also occupies a very minuscule extent. The operative portion of the judgment reveals that Thiruparankundram Devasthanam has been declared to be the owner and in possession of whole of Thiruparankundram hill and the Giriveethi except the occupied lands, Nellithoppu including new Mandapam, the flight of steps leading from Nellithoppu up to the Mosque on the top of the rock on which the Mosque and the flag staff of the Mohammedans stand.

c)Operative portion further declares that the Mohammedans are the owners and are in possession of Nellithoppu and the flight of steps and the whole of the top of the hill on which the Mosque on the flag staff stand. This judgment and decree has been confirmed by the Privy Council in their judgment dated 12.05.1931 reported in ***AIR 1931 PC 212***.

d) In paragraph No.8 of the Privy Council decision, it



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has been pointed out that the hillock is referred in some of the early Government records as Swamimalai or God's Hill. Therefore, it is clear that out of more than 170 acres except 33 cents of Nellithoppu area and few cents of Dhargah, the rest of the hill belongs to the Temple Devasthanam. If a person owns a house in the City of Madurai, he is at liberty to name the said house as per his wishes. However, he cannot either by himself or insist the others to call the entire City as per the name chosen by him. Similarly when the entire Thiruparankundram Hillock has been declared to be the property of Devasthanam, merely because title has been declared in favour of Mohammedans to a minuscule part of the said hill, it cannot be contended that the entire hill should be named after the Mosque/Dhargah.

e). The Civil Court in Paragraph No.15 of the judgment referred to the fact that the Mohammedans claimed title not only to the Mosque but to the whole of the hill on which the Mosque is located. While rejecting the said contention, in Paragraph No.16, the Civil Court has held as follows:

“16....Apart from any fruitless conjecture on that point,

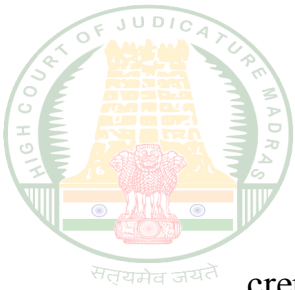


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one into existence long after the Hindus began to regard the hill as holy, for the holiness of it is found mentioned in Hindu works older than the advent of the prophet in Arabia.”

f)The Privy Council in their judgement cited supra, in Paragraph No.6 pointed out that the image of the temple is part of the hill and therefore, the devotees go around the hill in Giriveethi which is called as Malaiprakaram. In Paragraph No.8 of the Privy Council judgment, it is pointed out that the Hillock is worshipped by the Hindu community as a Linga, and there seems to be some reason to believe that Madura is the home of this peculiar form of worship. Therefore, it is clear that the entire hillock is treated as Lord Siva and Giri Pradakshinam is being performed by Hindu devotees. If it is named as Sikkandar Malai, the same would certainly hurt the sentiments of the Hindu devotees who are performing Giri Pradakshinam.

g)The learned Additional Advocate General has relied upon a FMB sketch prepared during UDR proceedings (updated register) which was prepared in the early 1980s. The Court can take judicial notice of the fact that due to the mistakes that have



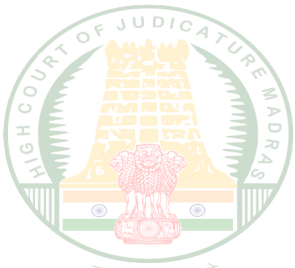
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crept, in during UDR proceedings, thousands of civil cases have been initiated and many of them are yet to be decided. The Government could not rely upon any other document other than the FMB sketch prepared during UDR proceedings.

79.The respondents in the writ petitions have heavily relied upon certain District Gazetteers. When the civil Court has specifically pointed out that in Paragraph No.16 that even before the advent of Prophet in Arabia, the Hindus regarded the hill as holy, relying upon the records created by Britishers would not be of any assistance. The academic publications were also referred and it is settled position of law that they cannot be relied upon for naming a particular place or a hill, unless there are proper Government records.

(II).Animal Sacrifice (Issue No.'a & b')

80.The Hon'ble Mrs.Justice J.Nisha Banu in Paragraph No.11 of her order had relied upon the fact that in various Hindu temples animal sacrifice is being performed traditionally and therefore, the same cannot be selectively prohibited in the Dhargah located on the top of the hill. She had relied upon the Peace Committee report dated 30.01.2025. She has further pointed out that the performance of animal sacrifice is being practiced from time immemorial and there is no statutory bar. She has further pointed that Subramaniaswamy Temple



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and Kasi Viswanathar Temple are situated at different locations. Therefore, the performance of animal sacrifice would not impinge upon the sacred spaces of another. She had further relied upon Article 25(2) of the Constitution of India, namely Right to Freedom of Religion and according to her, the practice would include food and dress and no outside authority has got any jurisdiction to interfere with such practices.

81.On the other hand, the Hon'ble Mrs.Justice S.Srimathy had relied upon the report of RDO wherein a compromise has been reached that as far as the animal sacrifice is concerned, the parties have to approach the competent civil Court. She has also recorded that there is no document to establish the past practice and only when a pamphlet was issued advertising that on 18.01.2025 a Kandoori festival is going to be performed, it came to the knowledge of the devotees and the temple.

82.Based upon the above said findings, the learned Judge has allowed the writ petition.

83.I am inclined to concur with the findings of the Hon'ble Mrs.Justice S.Srimathy for the following reasons.

a)Paragraph Nos.8 and 9 of the counter affidavit filed by the Dhargah Administration in WP(MD).No.2277 of 2025, clearly mention that the practice of

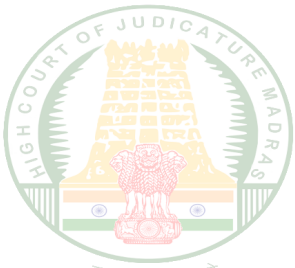


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animal sacrifice is being performed by Hindu Community members also in the Dhargah premises. Therefore, it is clear that even as per case of the Dhargah Administration, the practice of animal sacrifice at the Dhargah premises is not restricted to Muslim community members alone.

84.The learned Additional Advocate General appearing for the Revenue Officials and the learned Standing Counsel appearing for the Waqf Board extensively relied upon Quranic principles to impress upon the Court that animal sacrifice is not only part and parcel of Islamic religion but it is an essential part of the said religion. It was further contended that when the title to certain pockets over the Thiruparankundram hill have been declared by the civil Court and confirmed by the Privy Council, the devotees of the other religion cannot dictate terms and impose upon their own sentiments upon the other religion, that too within their own premises.

85.The Hon'ble Supreme Court in a judgment reported in **(2017) 9 SCC 1** (*Shayara Bano Vs.Union of India*) has categorically held that unless a particular religious practice is an essential religious practice, it is not protected under Article 25 of the Constitution of India. Even as per the admitted case of the Waqf Board, the practice of animal sacrifice is not followed in all the Mosques/Dargahs. That apart, in the present case, the said practice is not claimed

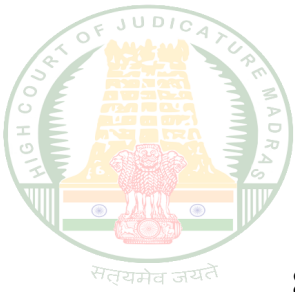


W.P.(MD)Nos.2678 of 2025 and batch

to be the exclusive practice of Mohammedans in Sikkandar Dargah. In such circumstances, the invocation of Article 25 of Constitution of India is not legally sustainable.

86. The Dhargah Administration claims that the practice of animal sacrifice is from time immemorial. The writ petitioners and the temple administration claim that there is no such practice in the past and suddenly such a practice has been advertised. It is further contended on the side of the writ petitioner that immediately after coming to know about the advertisement, objections have been raised.

87.A perusal of the Peace Committee Proceedings of Revenue Divisional Officer dated 31.12.2024 reveals that the temple administration as well as the Dhargah Administration, apart from revenue and police officials have participated in the said Peace Committee Meeting. It is recorded in the said peace committee meeting, that the Hindu Religious and Charitable Endowment Department have raised an objection with regard to the performance of animal sacrifice in the Dhargah premises. Further, it is recorded in the said proceedings, that both the parties have not produced any record for the same. It has been agreed that the parties have to approach the competent Court.



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88.It is contended on the side of the Dhargah Committee that they have not agreed for the said Committee proceedings. However, it is clear that objections have been raised by the temple administration with regard to performance of animal sacrifice. When one side asserts that there is a practice from time immemorial and the other side denies the same, the party who asserts such a customary practice has to approach the competent civil Court to establish the same.

89.The Dhargah Administration has filed a typed set of papers in WP(MD).No.2277 of 2025. It reveals that the earliest invitation for Kandoori festival is of the year 2004. However, it is the contention of the temple administration that no such animal sacrifice was performed during the said period and it was advertised only in January 2025.

90.There cannot be in any dispute that the animal sacrifice is being performed only in some of the Dhargahs/Mosques and not in all the Mosques or Dhargahs. In such circumstances, it is for Dhargah authority to establish the fact that such a customary practices are prevalent in Sikkandar Mosque.

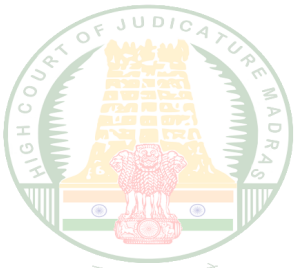
91.It was further contended that in many temples in and around Madurai, animal sacrifice is being performed and therefore, no exception can be taken for such a practice in the Dhargah. As pointed out earlier, different



customary practices/rituals are being followed in various temples like that of the Dhargahs. In such circumstances, reliance cannot be placed upon the practice being followed in certain temples, especially in the light of the fact that the Dhargah is located on the top of the hillock, which is considered to be a God by itself by the Hindu devotees. Unless positive evidence is let in, to establish such a customary practice is prevailing from time immemorial, the practices followed in other temples, cannot be cited as a reason.

92.The Revenue and Police Officials have placed heavily reliance upon the report of the Peace Committee dated 30.01.2025. A perusal of the said report reveals that neither the Dhargah Administration nor the temple administration has been invited for such a Peace Committee Meeting. Only the member of political parties have been invited. Therefore, it is clear that such a meeting was convened only to prevent law and order problem and not to decide the issue relating to the conduct of animal sacrifice. Therefore, such a report of the Peace Committee dated 30.01.2025 cannot be relied upon.

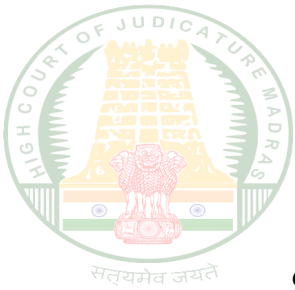
93.The Revenue and Police Officials have also relied upon a statement of one Mr.Paramasivam given under 183 BNSS 2023 (Section 164 Cr.P.C) before the Judicial Magistrate No.I, Madurai in CrI.MP(MD).No.533 of 2025 on 01.03.2025. This statement was recorded pursuant to an FIR in Crime No.64 of



W.P.(MD)Nos.2678 of 2025 and batch

2025 dated 31.01.2025 registered at the instance of the Executive Officer of Thiruparankundram temple. In the said complaint, the temple administration has complained that, a Board has been put up at the foot hills of the hillock that arrangements have been made for conducting Kandoori festival at the top of the hill. In the statement, the said Paramasivam has stated that his father used to skin the goat whenever he is called. According to him, he had accompanied his father for skinning of goat in the Dhargah located at the top of the Thiruparankundram hill and other places. He had further stated that after his death, he had skinned the goat, but due to old age, some other persons are doing the same now. This statement is being heavily relied upon by the Revenue and Police Officials to contend that the practice of animal sacrifice in the Dhargah premises is being performed from time immemorial.

94.It is settled position of law that a statement under Section 164 Cr.P.C (new Section 183 of BNSS), does not have any evidentiary value and it is not a substantial evidence and it can be used only to corroborate or contradict a witness on a later point of time. Such an untested statement cannot be relied upon to establish an alleged customary practice said to have been followed from time immemorial. Unless the civil Court categorically decides the issue, the statement cannot be of any assistance to either of the parties.



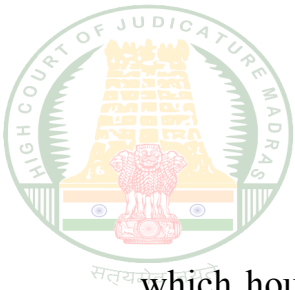
W.P.(MD)Nos.2678 of 2025 and batch

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95.Two Notifications issued by Archaeological Survey of India on 29.07.1908 and 07.01.2023 declare that 172.2 acres of land as protected monuments. In fact, it covers almost the entire hillock.

96.As per Rule 8(g) of Ancient Monuments and Archaeological Sites and Remains Rules 1959 bringing any animal for any purpose other than the maintenance of monuments is a prohibited act. As per Rule 8(c) of the said Rules, cooking or consuming of food is also prohibited except where it is permitted specifically.

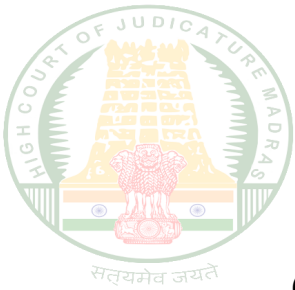
97.The A.S.I Department has addressed a communication to the District Collector, Madurai on 25.01.2025 pointing out that cavern with Pancha Pandava beds on the western slope of the hills and similar beds behind the Sikkandar mosque on the top and Rock cut cave at Thiruparankundram are protected monuments. The ASI Department had sought the attention of the District Collector to issue suitable directions for conducting a joint survey to demarcate as per the scheduled boundaries in the Gazette notification issued in the year 1908 and 1923. This letter has been followed up by another letter to the District Collect on 18.02.2025. Therefore, it is clear that so far the revenue officials have not co-operated with the ASI Department for demarcating the protected monuments area which spreads over more than 172 acres in the hillock



W.P.(MD)Nos.2678 of 2025 and batch

which houses two protected monuments. In such circumstances, even assuming that the Dhargah Administration is the owner of the Sikkanthar Mosque and Nellithoppu area, in the light of Rule 8 of Ancient Monuments and Archaeological Sites and Remains Rules, 1959, the Dhargah Administration cannot be permitted to perform any animal sacrifice without the permission of the Archaeological Survey of India Department. Any such permission would be in violation of ASI Act. Therefore, as on today, there is a statutory bar against the traditional practice of animal sacrifice over the Thiruparankundram Hillock.

98.As per the judgment of the civil Court, the traditional steps leading to Nellithoppu area belong to the temple Devasthanam. These footsteps cut across the Nelithoppu area to reach Kasi Viswanathar Temple. It is also brought to the notice of the Court that 'Vel' from Subramaniaswamy Temple Thiruparankundran is been taken, for dipping the same in Kovil Theertham at Kasi Vishwathanar Temple. It is carried through the traditional path across the Nellithoppu area during festival season. Therefore, Subramaniaswamy temple and Kasi Vishwanathar Temple are connected to each other and hence, it clearly impinges upon the religious practice of one community, if animal sacrifice is permitted.



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(III) Conduct of prayers/Gathering at Nellithoppu:(Issue No.'d')

99. Mohammedans have been granted declaration of title for an extent of 33 cents in Nellithoppu area in O.S.No.4 of 1920. This judgment has been confirmed by the Privy Council in their judgment reported in *AIR 1931 PC 212*. When a dispute arose with regard to performance of prayers at the time of Ramzan and Bakrid at Nellithoppu, a Peace Committee Meeting was conducted by the RDO on 22.06.2023 wherein the Dhargah authorities as well as Hanuman Sewa Committee, HR & CE officials, Revenue and Police officials have participated. In the said meeting, it has been agreed that without disturbing the traditional footsteps, Mohammedans would be permitted to offer their prayers at Nellithoppu area during Bakrid and Ramzan. It was further agreed that the prayer would not hinder the access of devotees to Kasi Vishwanathar Temple. It has been further agreed that the revenue as well as the police officials would maintain the law and order problem during the above said period.

100.WP(MD).No.15565 of 2023 has been filed seeking a direction as against the official respondents to initiate action as against the Dhargah authorities not to conduct prayers or gathering at Nellithoppu.



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101.The following contentions have been raised by the learned counsel for the petitioner in this writ petition.

a)The crowd spills over the traditional pathway affecting the access of Hindu devotees to Kasi Vishwanathar Temple.

b)Non-vegetarian food is being cooked and served in the traditional footsteps as well as Nellithoppu area affecting the sentiments of the Hindu devotees.

102.Hon'ble Mrs.Justice J.Nisha Banu while considering the said prayer in Paragraph No.10 has proceeded to dismiss the writ petition primarily on the ground that the rights of the parties have already got crystallized in O.S.No.4 of 1920 in E.P.No.163 of 1962 and in such circumstances, such a prayer cannot be granted.

103.Hon'ble Mrs.Justice S.Srimathy while dealing with the above prayer, while allowing the writ petition, in Paragraph No.28 has observed that the persons offering prayers are occupying the pathway leading to Kasi Vishwanathar Temple and also other places belonging to the temple. She had further observed that such a new practice has been started and the same cannot be allowed.



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104.It is true that there is an extent of 33 cents in the Nellithoppu area which has been declared in favour of the Mohammedans. There are no permanent structures in this area to offer prayer. In such circumstances, if a greater number of people are permitted to offer prayer, the crowd is certainly likely to occupy the pathway leading to the Kasi Vishwanathar Temple and the traditional steps leading up to the Nellithoppu area, which has been declared in favour of the temple Devasthanam. However, the said over-crowding cannot be a ground for denying the right to offer prayers within the Nellithoppu area, provided it does not obstruct the pathway to the devotees and the traditional steps leading up to the Nellithoppu area.

105. However, in the Nellithoppu area any animal sacrifice, cooking, carrying or serving of any non-vegetarian food cannot be permitted until a decision is rendered by a competent Civil Court with regard to the customary practice of animal sacrifice upon the Thiruparankundram Hillock. In fact, the temple Devasthanam has been declared to be the absolute owner of the traditional footsteps leading up to Nellithoppu area. The Mohammedans are only having the right of usage over the said pathway. In such circumstances, they cannot use the said pathway for any other purpose other than to reach Nellithoppu area.



W.P.(MD)Nos.2678 of 2025 and batch

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106.The Mohammedans could be permitted to offer their prayers in Nellithoppu area during Ramzan and Bakrid festival days alone, subject to the above said conditions and they will not defile or spoil the traditional footsteps.

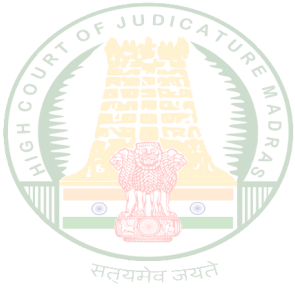
(G).Conclusion:

107(i). I concur with the conclusion of Mrs.Justice S.Srimathy in WP(MD).No.2277 of 2025 and WP(MD).No.2678 of 2025 with regard to the allowing of those writ petitions.

(ii). I concur with the conclusion of Mrs.Justice J.Nisha Banu with regard to the dismissal of WP(MD).No.15565 of 2023. No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No.
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W.P.(MD)Nos.2678 of 2025 and batch

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- 1) The District Collector,
Madurai District
- 2) The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
- 3) The Commissioner of Police,
Madurai City, Madurai.
- 4) The Inspector of Police,
Thiruparankundram Police Station,
Madurai.
- 5) The Deputy Commissioner/ Executive Officer,
Arulmighu Subramania Swamy Thirukovil,
Thiruparankundram, Madurai – 5
- 6) Hazarath Sultan Sikkandar Badhusha Avuliya Dargah,
Rep. by its Managing Trustee,
Thiruparankundram, Madurai – 5
- 7) The Officer Incharge,
The Archaeological Department,
Thirumayam, Pudukottai District.
- 8) The Inspector of Police,
Thiruparankundram Police Station,
Thiruparankundram, Madurai City.
- 9) The Tahsildar,
Thiruparankundram Taluk,
Madurai.



W.P.(MD)Nos.2678 of 2025 and batch

10) The Trustee,
Sikandar Badusha Avuliah Dargah,
Thiruparankundram, Madurai.

11) The Secretary to Government,
Hindu Religious and Charitable
Endowments Department,
Chennai.

12) The Commissioner,
Hindu Religious and Charitable
Endowments Department, Chennai.

13) The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Ellis Nagar, Madurai.

14) The Executive Officer,
Arulmighu Subramania Swamy Thirukovil,
Thiruparankundram, Madurai.

15) Sikkandar Badhusa Dharga,
Rep. by its Jamath Members,
Thiruparankundram,
Madurai District.



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W.P.(MD)Nos.2678 of 2025 and batch

R.VIJAYAKUMAR, J.

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W.P.(MD)Nos.2678 of 2025 and batch cases

10.10.2025