



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.09.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.13644 of 2015

C.Selva Doss

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil-629 001.

2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.629 001.

3. The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

... Respondents

Prayer: This Writ Petition has been filed under Article 226 of Constitution of India praying for a Writ of Mandamus, forbearing the Respondents or their subordinates from initiating any action against the petitioner by preventing him from conducting prayer meetings in the Petitioner's house at Door No.16/25 A, Kollikoyavillai, Kannanur Post, Kanyakumari District without issuing proper notice and giving him opportunity to be heard in any action proposed to be taken by the Respondents.

For Petitioner : Mr.C.Muthu Saravanan

For Respondents : Mr.S.Chandrasekar
Government Advocate

ORDER

The Writ Petition has been filed praying for a Writ of Mandamus, forbearing the Respondents or their subordinates from initiating any action against the petitioners by preventing him from conducting prayer meetings in the Petitioner's house at Door No.16/25 A, Kollikoyavillai, Kannanur Post, Kanyakumari District, without issuing proper notice and giving him an opportunity to be heard in any action proposed to be taken by the Respondents.

<https://hccourtsgov.in/services/>

2. Mr.S.Chandrasekar, learned Government Advocate, takes



notice for the respondents.

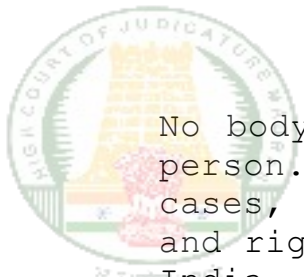
3. By consent, this Writ Petition itself is taken up for final disposal.

4. In the affidavit filed in support of the Writ Petition, it has been averred that the petitioner purchased the land in Re-Survey No.280/17 A Thiruvattar, Kanyakumari District in the year, 1971 for the purpose of constructing a dwelling house. Thereafter, the petitioner applied for planning permission for construction of a building. Pursuant to the permission granted by the authority concerned, the petitioner has constructed the building. The petitioner has also got the Ration card and voters list in his house address. He has applied to the Electricity Department and managed to get electricity connection. On 23.06.2006, the petitioner executed a registered settlement deed in favour of his son. The petitioner is using his house for conducting prayer jointly and it is in a separate compound. Sometimes, the neighbors and relations would also join in the house prayer. It would not cause any hindrance to anybody. The petitioner is also conducting prayers and Preaching the Bible for more than 25 years. This prayer did not cause any hindrance to anybody including the neighbours. But without any reason, the police and Revenue Officials have stopped the house prayer. Their attempt is illegal and unlawful interference with petitioner's personal right of worship and he has come forward with this writ petition for the above stated relief.

5. When the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that in a similar situation, this Court has passed an order in *W.P.(MD)No.10782 of 2012, dated 14.08.2012 in the case of Paul Thankom vs. The Secretary to Government, Home Department* in which it is held that there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place. The relevant portion of the order reads as follows:-

"8. In the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place. However, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take necessary action under the provisions of the relevant statutes. But before resorting to any action, the authorities on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a right of others, under Part III of the Constitution of India to enforce public order.

Complaints to restrict freedom to practice and profess any form of religion should not be entertained, as it would be affecting the constitutional right of a person.



No body has a right to affect the religious practice of a person. Reasonable restrictions, can be imposed only in cases, falling under "public order or morality and health and rights guaranteed under Part III of the Constitution of India. So long as the petitioner or the members of her family and others do not indulge in any activity forbidden under law, or their actions are contrary to public order, morality and health (2) Other provisions of part III of the Constitution; (3) and law (a) regulating or restricting any economic, financial or political or other secular activity, there cannot be interference with a right to practice and profess any religion. Conducting prayers collectively by the members belonging to a particular sect of a religion cannot be restricted as it would amounting to interfering with their constitutional right to practice and propagate religion of their choice. This Court is not inclined to grant any blanket direction in the nature of mandamus as prayed for, and holds that it is always open to the official respondents to take appropriate action against the petitioner and others, if there are strong and credible materials available against them, to arrive at a conclusion that they have indulged in any activity forbidden by law, as explained in the judgments stated supra."

6. In view of the aforesaid decision, the learned counsel for the petitioner submitted that there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place. In similar situation, this Court has permitted the petitioner therein to conduct prayer in the dwelling house.

7. The learned Government Advocate submitted that the petitioner has to approach the first respondent, the District Collector to seek permission in this regard.

8. By considering the dictum laid down in *W.P.(MD)No.10782 of 2012, dated 14.08.2012 in the case of Paul Thankom vs. The Secretary to Government, Home Department*, it is appropriate to direct the petitioner to give representation to the first respondent within a period of two weeks and on receipt of the same, a further direction can be given to the first respondent to consider the same.

9. Accordingly, the petitioner is directed to give a fresh representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider



the same and pass appropriate orders based on the judgment passed in W.P. (MD) No. 10782 of 2012, dated 14.08.2012 in the case of Paul Thankom vs. The Secretary to Government, Home Department, within a period of four weeks thereafter.

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10. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CO)

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Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District,
Nagercoil-629 001.
2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.629 001.
3. The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

+1 cc to MR.Mr.Muthu, ADVOCATE, SR NO: 55223
+1 CC to SPL.GOV.T.PLEADER, SR NO: 55218

W.P (MD) .No.13644 of 2015
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