



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2015

CORAM

THE HONOURABLE **MR. JUSTICE R. SUBBIAH**

W.P(MD) .No.14087 of 2015

and

M.P(MD) Nos.1 to 3 of 2015

Fr.A.Michael Raj
St.Antony's Church,
Door No.2/98,
Re-Survey No.122/2,
Surulacode Village,
Kalkulam Taluk,
Kanyakumari District.

...Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Revenue Divisional Officer,
Padhmanabhapuram Revenue Division,
Thuckalay,
Kanyakumari District.
- 3.The President,
Ponmanai Selection Grade Town Panchayat,
Vendalicode,
Kanyakumari District.
- 4.The Executive Officer,
Ponmanai Selection Grade Town Panchayat,
Vendalicode,
Kanyakumari District.
- 5.The Village Administrative Officer,
Surulacode,
Kanyakumari District.
- 6.The Inspector of Police,
Kulasekaram Police Station,
Kulasekaram,
Kanyakumari District.

... Respondents

This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the fourth respondent in Na.Ka.68/2012/Aa1, dated 31.07.2015 and quash the same and consequently direct the respondents to permit the petitioner in conducting religious activities in St. Antony's Church in Door No.2/98, Re-Survey No.122/2, Surulacode Village, Kalkulam Taluk, Kanyakumari District.



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For petitioner : Mr. Puhazh Gandhi
For R-1, 2, 5 and 6 : Mr.G.Muthukannan
Government Advocate
For R-3 & R-4 : Mr.K.Guru,
Additional Government Pleader

ORDER

This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the fourth respondent in Na.Ka.68/2012/Aa1, dated 31.07.2015 and quash the same and consequently direct the respondents to permit the petitioner to conduct religious activities in St. Antony's Church in Door No.2/98, Re-Survey No.122/2, Surulacode Village, Kalkulam Taluk, Kanyakumari District.

2. Mr.G.Muthukannan, learned Government Advocate takes notice for the respondent Nos.1, 2, 5 and 6 and Mr.K.Guru, learned Additional Government Pleader takes notice for the respondent Nos.3 & 4.

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

4. It has been averred in the affidavit filed in support of this Writ Petition that for the past seventeen years, catholic religious worship and other religious ceremonies including holy mass, marriage ceremonies, death ceremonies etc., were being conducted in the subject building bearing Door No.2/98, Re-Survey No.122/2A, situated at Surulacode Village, Kalkulam Taluk, Kanyakumari District, which was functioning as a School seventeen years back. Subsequently, the petitioner came to know that approval of the District Collector is required to conduct religious worship and therefore, the petitioner made an application in MP/10/21619, dated 26.04.2010 to grant permission to conduct worship. The District Collector promised to grant permission sought for by the petitioner. But there was no response from the District Collector. The petitioner has also given application to the village panchayat for several times informing them that the primary school was not functioning in the subject building and as such, due permission can be accorded for the place of worship. Further, the petitioner made application on 09.07.2012 and 04.02.2013 to the District Collector to grant permission for the church. But, once again there was no response. While so, some religious groups in the name of Pankajakannigaianman kovil made a representation to the District Collector to initiate action against the petitioner. The said religious group has also filed Writ Petition in W.P.No.15156 of 2012 before this Court to consider the representation submitted to the second respondent on 17.12.2012. Pursuant to the direction given by this Court, the second respondent has passed an order on 13.02.2013 directing the fourth respondent to initiate action under the Tamil Nadu Panchayat Building Rules, 1997 as against the petitioner. Aggrieved over the order of Revenue Divisional Officer, the petitioner filed an appeal to the District Collector on 05.03.2013 and the said appeal is still pending. Under such circumstances, the fourth respondent hurriedly passed an order on 31.07.2015 directing the petitioner to stop all religious activities in the subject building. Hence, the petitioner has come forward with the present Writ Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

5. Heard both sides and perused the materials available on record.



6. It is the submission of the learned counsel for the petitioner that the appeal filed by the petitioner is still pending on the file of the first respondent. The petitioner is conducting religious activities in the subject building for the past seventeen years. In such circumstances, even before disposal of the said appeal, the fourth respondent ought not to have passed an order directing the petitioner to stop all religious activities.

7. Considering the submissions made on either side, this Court is inclined to set aside the order passed by the fourth respondent.

8. In the result, the Writ Petition is allowed and the order of the fourth respondent in Na.Ka.68/2012/Aa1, dated, 31.07.2015, is set aside. The first respondent is directed to dispose of the appeal filed by the petitioner, within a period of six weeks from the date of receipt of a copy of this order. Till such time, the petitioner is permitted to conduct religious activities in the subject building. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector, Kanyakumari District, Nagercoil.

2.The Revenue Divisional Officer,
Padhmanabhapuram Revenue Division,
Thuckalay, Kanyakumari District.

3.The President,
Ponmanai Selection Grade Town Panchayat,
Vendalicode, Kanyakumari District.

4.The Executive Officer,
Ponmanai Selection Grade Town Panchayat,
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5.The Village Administrative Officer,
Surulacode, Kanyakumari District.

6.The Inspector of Police,
Kulasekaram Police Station,
Kulasekaram, Kanayakumari District.

+1cc to M/S.Mr. Puhazh Gandhi, Advocate in SR.No 44659

TS/07.08.2015/3P - 8C KBM/SAR -II