



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.09.2016**

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

AND

THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

W.P. [MD] .No.6127 of 2011

N.Sivathanu Pillai

: Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.A.Jacob Sakaria

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to remove the illegal construction in R.S.No.562/1 of Kothanallur Village, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.G.R.Swaminathan

For Respondent No.1 : Mr.Aayiram K.Selvakumar,
Government Advocate

For Respondent No.2 : Mr.S.C.Herold Singhfor Mr.Jeen Felir

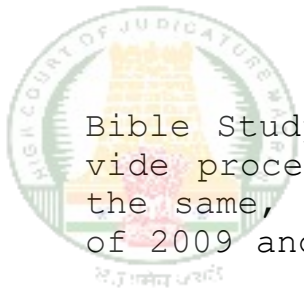
O R D E R

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner has come up with this Public Interest Litigation seeking a direction to the first respondent to remove the illegal construction in R.S.No.562/1 of Kothanallur Village, Kalkulam Taluk, Kanyakumari District.

2. We have heard the learned counsel for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent. We have also perused the records carefully.

3. The petitioner is a resident of Kaithacode Village in Kanyakumari District. According to him, he is the present Oor Thalaivar of Krishnavagai Community. He has further stated that one Savarimuthu gifted the land comprised in Survey No.562/1 at Kothanallur Village in favour of the Bishop, C.S.I. Diocese on 25.11.1998. It is further stated that when they wanted to put up a



Bible Study Centre on the said land, the then District Collector, vide proceedings dated 12.08.2005, denied permission. Challenging the same, the Bishop has filed a Writ Petition in W.P.(MD)No.8934 of 2009 and the same is pending before this Court.

4. It is further stated that subsequently, by suppressing the pendency of the Writ Petition in W.P.(MD)No.8934 of 2009, the Secretary, C.S.I., Saralvizhai, Kotticode, filed a Writ Petition in W.P.(MD)No.14698 of 2010, wherein, he contended that CSI Church was already in existence in Survey No.552/1 and he wanted to renovate the same by changing the roof. This Court, in M.P.(MD) No.1 of 2010 in W.P.(MD)No.14698 of 2010, granted an order of interim injunction restraining the respondents therein from preventing the Secretary from doing the said job. In pursuance of the said interim injunction, it is alleged that the Secretary has made some construction on the disputed property. The said Writ Petition in W.P.(MD)No.14698 of 2010 was, subsequently, dismissed on 10.02.2011. Now, the petitioner wants original position to be restored by removing the said construction, because the construction was made armed with the interim order made in W.P.(MD)No.14698 of 2010.

5. The Tahsildar, Kalkulam, vide proceedings in RC.A6/46709/2010, dated 23.09.2016, has stated that the Writ Petition in W.P.(MD)No.8934 of 2009 is still pending and subject to the outcome of the said Writ Petition, necessary action would be taken. The District Collector has reserved further action on the representation made by the petitioner on 12.02.2011, awaiting disposal of W.P.(MD)No.8934 of 2009. He has further stated that there is likelihood of law and order problem resulting in clash between the people of two communities in that area one belonging to Hindu Religion and the other belonging to Christian Religion. It is only to avoid such kind of law and order problem, the District Collector appears to have been waiting for the outcome of W.P.(MD)No.8934 of 2009.

6. In our considered view, the District Collector was right in doing so, because he is mainly concerned with the law and order. In our considered view also, further action in this matter for the removal of the building could be made, subject to the outcome of W.P.(MD)No.8934 of 2009. Therefore, no relief could be granted to the petitioner in this Writ Petition. The Writ Petition is, therefore, dismissed. If so advised, the petitioner has to work out his remedy in the said Writ Petition. No costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

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

Sub Assistant Registrar



To
The District Collector,
Kanyakumari District, Nagercoil.

WEB COPY

+1 CC to M.ROBER BRUCE, Advocate, SR No.55269

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.55588

+1 CC to Mr.G.R.SWAMINATHAN, Advocate, SR No.55822

Order made in
W.P. [MD].No.6127 of 2011
Dated: 23.09.2016

SML

SH/PV:24.10.2016:2P/5C