

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27499 of 2017

S.Sakayaraj

.. Petitioner

Vs.

1. The Collector,
Coimbatore District,
Coimbatore-641 018.
2. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.
3. Churches of South India trust Association-CSI,
Represented by its President Richard Jayakumar,
Amman Kulam, Coimbatore. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation dated 23.08.2017.

For Petitioner : Mr.T.L.Thirumalaisamy
For Respondents : Mr.S.Diwakar, Spl.GP (for R1)
Mr.R.Sivakumar (for R2)

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation dated 23.08.2017.

2. According to the petitioner, he has purchased an extent of 2697 Sq.ft of land in T.S.No.10/1070/1C2B under sale deed dated 12.01.2005 and has constructed a prayer hall, after obtaining necessary permission from the respondents 1 and 2 and conducted community prayers and performed marriages in the said hall. One Santhi has purchased two sites adjacent to the property of the petitioner, and she is a member of CSI-Church. She decided to construct the prayer hall in that place and that the petitioner has objected to the same, as it would be inconvenient to the public, if two prayer halls are located in the same place adjacent to each others.

3. The petitioner further stated that in order get over the objections given by him, the said Santhi sold the property to the 3rd respondent to the extent of 2019 sq.ft. It is represented that the 3rd respondent has dumped the construction materials for constructing prayer hall. It is stated that the second respondent has not granted any permission and the 3rd respondent has not obtained "No Objection" from the 2nd respondent. The petitioner stated that in terms of Section 268 (2)(b), of the Coimbatore City Municipal Corporation Act, 1981 that no site shall be used for construction of a building intended for public worship if the construction of the building thereon will wound the religious feelings of any class of persons. He also stated in terms of Section 269(1)(c), the council may give public notice of its intention to declare that in any streets, portions of streets or localities specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character or buildings destined for particular uses will not be allowed without the special permission of the Commissioner.

4. According to the petitioner, the third respondent has not taken any consent from respondents 1 & 2 and that the writ petitioner made representation on 23.08.2017 and that the same may be considered and orders be passed.

5. Mr.R.Sivakumar, learned counsel appearing for the second respondent would submit that the writ petition itself is premature and if there is any dispute between the petitioner and the 3rd respondent, it can be decided in appropriate Civil Forum. The 3rd respondent has not obtained permission for constructing prayer hall. The said Act nowhere prohibits, there shall be one prayer hall in a place and Section 274 states that no construction or reconstruction of building shall begin, unless and until, the Commissioner grants permission for execution of the work.

6. If the 3rd respondent has commenced any construction without the permission of the 1st and 2nd respondents and without proper approval, it is open to the respondents 1 & 2 to demolish the same. It is also made it clear that the documents produced by the petitioner stating that he has been paying property tax to the building and the said building is used for prayer hall, is not suffice if the prayer hall is not as per approved plan sanctioned. If no plan is there for having prayer hall by the petitioner, the said prayer hall shall be removed / demolished forthwith. The question of considering the petitioner's case does not arise, as the dispute between the petitioner and the 3rd respondent has got to be decided before the appropriate forum in the manner known to law.

7. With the above observation, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

pvs

To:

1. The Collector,
Coimbatore District,
Coimbatore-641 018.
2. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.

+1cc to Mr.T.L.Thirumalaisamy Advocate, S.R.No. 75541/17

+1cc to Mr.R.Sivakumar Advocate, S.R.No. 75599/17

+1cc to the Government Pleader, S.R.No. 76946/17

W.P.No.27499 of 2017

KGK (CO)
TR(20/11/2017)

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