



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 11.07.2017

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No. 929 of 2017
and
C.M.P (MD) No. 6255 of 2017

Pastor. I.Sathyaseelan

... Appellant/Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Kanyakumari at Nagercoil.

2.The Superintendent of Police,
Kanyakumari District.
Kanyakumari.

3.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

4.The Tahsildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari District.

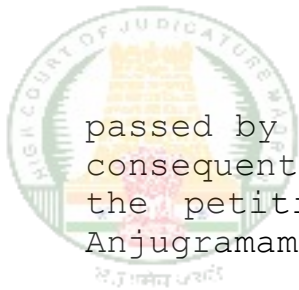
5.The Inspector fo Police,
Anjugramam Police Station,
Kanyakumari District.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 28.04.2016 passed in W.P. (MD) No.8617 of 2016 on the file of this Court.

Prayer in WP(MD). 8617/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF HABEAS CORPUS, MANDAMUS calling for the records pertaining to the impugned order passed by the 1st respondent in proceedings No.D.Dis.C3/10944/15 dated 27.12.2015 and the subsequent order



passed by the 4th respondent dated 2.4.2016 and quash the same and consequently direct the 1st respondent to grant plan sanction to the petitioners Penthacost Church situated in 11/94 Kanimadam, Anjugramam Post, Kanyakumari District.

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For Appellant

: Mr.K.Samidurai

For Respondents

: Mr.V.R.Shanmuganathan
Spl. Govt. PleaderJUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

Heard Mr.K.Samidurai, learned counsel appearing for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2.By consent of both sides, this writ appeal itself is taken up for final disposal.

3.By the impugned order the request made by the petitioner seeking permission for construction/Extension of prayer hall was rejected on the ground of law and order problem. The learned Single Judge, was pleased to dismiss the writ petition on the sole ground that the appellant has not obtained the prior permission.

4.As submitted by the learned counsel appearing for the appellant the request itself is for permission. Though in the case on hand, the appellant has put up a construction and using the premises as a prayer hall without permission, the said fact cannot be a ground to reject the permission sought for by the petitioner. The impugned order has been passed by the first respondent by placing the reliance upon the reports given by the Superintendent of Police as well as the Revenue Divisional Officer. The rejection is certainly constitutes as a Civil injury having its own consequences. There is no indication for considering the case of the appellant and there was no notice before passing the order of rejection, though, it was passed on the application made by the appellant.

5.In such view of the matter, we are inclined to set aside the impugned order passed in the writ petition with a direction to the first respondent to furnish the copy of the reports relied upon and thereafter, conduct an enquiry after affording personal hearing to the appellant. Necessary orders, will have to be passed in the manner known to law, within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear as the appellant does not have a permission as on today, he shall not run the prayer hall until and unless appropriate permission is obtained.



6. With the above observation, the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar.

To

1. The District Collector,
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Kanyakumari at Nagercoil.

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Nagercoil,
Kanyakumari District.

5. The Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.

+1CC to Mr. K. Samidurai, Advocate, SR.No. 64667

+1CC to the Special Government Pleader SR.No. 64970

WA (MD) No. 929 of 2017
11.07.2017

am/sss

AM/SKN RSK/SAR 2/20.07.2017/3P/8C