



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P. (MD) No.2775 of 2017

K.Rajakumar

... Petitioner

-vs-

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
3. The Revenue Divisional Officer,
Kanyakumari District,
Nagercoil.
4. The Tahsildar,
Agasteeswaram Taluk,
Nagercoil.
5. The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam Post,
Kanyakumari District.
6. The Executive Officer,
Ganapathipuram Town Panchayat,
Ganapathipuram,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondent 1 to 5 to consider the petitioners representation dated 06.8.2016 for conducting the routine prayer at the petitioner's house at 11-73-2, Ganapathipuram Village, Kanyakumari District and to pass appropriate order granting permission and give suitable protection.



For Petitioner : Mr.P.Thiyagarajan
For Respondents : Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader

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ORDER

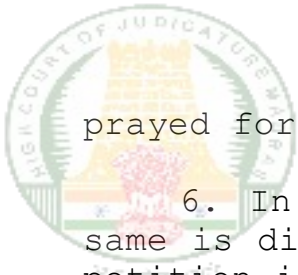
This petition has been filed, seeking to direct the respondent 1 to 5 to consider the petitioner's representation dated 06.08.2016 for conducting the routine prayer at the petitioner's house at 11-73-2, Ganapathipuram Village, Kanyakumari District

2. It is seen that this petitioner was occupying about 1000 sq.ft. of land near to his house and built a shed thereon and was conducting a mass. On coming to know of it, the Executive Officer, Town Panchayat passed an order dated 29.07.2016, calling upon the petitioner not to conduct any mass in that place, as there is a likelihood of law and order problem. Thereafter, the petitioner has given a representation dated 06.08.2016 to the authorities, seeking protection for conducting the mass and has subsequently filed this writ petition for a mandamus to the authorities to dispose of his representation dated 06.08.2016.

3. Learned counsel for the petitioner contended that under Article 25 of the Constitution of India, the petitioner has got a fundamental right to profess, practice and propagate his religion and therefore, constitutional duty is cast upon the authorities to give him protection.

4. Per contra, learned Additional Government Pleader submitted that the area in question is in Kanyakumari District, which is a volatile area and prone to communal clashes. He has also submitted that the State has got no objection, if he conducts his prayers without mike set and amplifiers inside his house, whereas he had put up a shed in a 1000 sq.ft. land and was conducting mass and that is why, the Executive Officer has asked him to stop the same.

5. In the opinion of this Court, the fundamental right guaranteed under Article 25 of the Constitution of India does not give the petitioner an unfettered right to put up a shed near his house without any permission from the authorities and conduct mass prayers. If any untoward incident takes place in an unauthorized structure, it will lead to a heavy loss of life. That apart, a direction to the respondents to consider the representation cannot be passed without the respondents having a statutory duty to perform. Earlier, the petitioner had given an application to the 1st respondent herein, seeking permission for construction of a prayer hall and the same was rejected on 30.09.2014. Under such circumstances, this Court is of the view that the mandamus as



prayed for by the petitioner cannot be issued.

6. In the result, this petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To:

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

+1 cc to MR.P.THIAAGARAJAN, Advocate SR.No.12817

+1 cc to Special Government Pleader SR.No.12864

W.P. (MD) No.2775 of 2017

06.03.2017

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