



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2017

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

W.P. (MD) No.6577 of 2017 and
W.M.P. (MD) No.5165 of 2017

A.B.S.Antow

... Petitioner

-vs-

1. The Superintendent of Police,
O/o.Superintendent of Police,
Nagercoil, Kanyakumari District.2. The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Colachal, Kanyakumari District.3. The Inspector of Police,
Karungal Police Station,
Kanyakumar District.4. Saint Antony's Church,
Rep. by its Parish Priest,
Fr.Peter, Thundathuvillai,
Karungal, Kanyakumari District.5. Saint Antony's Church Committee,
Rep. by Mr.S.William,
Thundathuvillai,
Karungal, Kanyakumari District.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the Respondents Nos.1 to 3 to restrain the respondents 4 and 5 and their men from interfering with the peaceful business operations of the petitioner in kapiyrai village Kalukulam Taluk Kanyakumari district and forbear respondents 4 and 5 and their men from illegally entering the privte property of the petitioner to worship the 3ft concrete cross installed inside the petitioner's property within time frame stipulated by this Hon'ble Court.

For Petitioner

: Mr.T.Lajapathi Roy

For R1 to R3

: Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader<https://hcservices.ecourts.gov.in/case-files/>

For R5

: Mr.M.R.Sreenivasan
: Mr.P.T.Ramesh Raja



O R D E R

This petition has been filed, seeking to direct the Respondents Nos.1 to 3 to restrain the respondents 4 and 5 and their men from interfering with the peaceful business operations of the petitioner in kapiyrai village Kalukulam Taluk Kanyakumari district and forbear respondents 4 and 5 and their men from illegally entering the private property of the petitioner to worship the 3ft concrete cross installed inside the petitioner's property.

2. It is the case of the petitioner that he is the owner of certain properties in various Survey Numbers in Kapiyrai Village, Kalkulam Taluk, Kanyakumari District and that he has been carrying on quarrying operation in his patta land on the license given by the Government. While so, it is the allegation that the respondents 4 & 5 are using the petitioner's land to reach a Cross that is said to be in a hillock. In this regard, the petitioner has filed a suit in O.S.No.20 of 2017 before the learned Principal District Munsif Court, Padmanabhapuram and obtained an order of interim injunction against R4 from interfering with the peaceful possession of the suit property. While so, the petitioner is before this Court with the above prayer.

3. Heard the learned counsel for the parties. Mr.Madhavan, Inspector of Police, Karungal Police Station is present.

4. In the considered opinion of this Court, the relief sought for by the petitioner cannot be granted, inasmuch as this Court cannot direct the respondent police to prevent the respondent nos.4 & 5 from committing any offence. Of course, under Section 149 Cr.P.C., a duty is cast upon the Police to interpose to prevent the commission of cognizable offence, where there is a likelihood of commission of offences. In this case, the Police cannot, in anticipation that the respondents 4 & 5 are going to commit a breach of injunction order, take preventive action as prayed for by the petitioner. As and when there is a breach of law by the respondents 4 & 5, it is needless to state that the Police can enquire into it and take action in accordance with law.

5. With the above observation, this petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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To:

1. The Superintendent of Police,
O/o. Superintendent of Police,
Nagercoil, Kanyakumari District.
2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Colachal, Kanyakumari District.
3. The Inspector of Police,
Karungal Police Station,
Kanyakumar District.

+1cc to Mr.T.Lajapathy Roy, Advocate SR.No.52614

+1cc to Mr.M.R.Sreenivasan, Advocate Sr.No.53043

+1cc to special Government Pleader SR.No.52791

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