

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07..11..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.19034 of 2009
and M.P.No.2 of 2009

C.L.Binny

... Petitioner

-Versus-

1.The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.

2.The District Collector,
Collector of Kanniyakumari,
Kanniyakumari District,
Nagercoil.

3.The Revenue Divisional Officer,
Thakalai,
Kanniyakumari District.

4.V.Antony Jeyasekar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to G.O.(4D) No.52, Home (Pol.12) Department, dated 03.08.2009 on the file of the 1st respondent and to quash the same and consequently, direct the 2nd respondent to grant permission to the petitioner in accordance with law to conduct prayer meetings at the house of the petitioner situated in S.No.318/7 of Kothanalloor Village, Kalkulam Taluk, Kanniyakumari District.

For Petitioner : Mr.G.Justin

For Respondent(s) : Mr.R.Govindasamy,
Spl.G.P. for RR1 to 3

No appearance for R4

ORDER

Challenge in this writ petition is to the order passed by the 1st respondent in G.O.(4D) No.52, Home (Pol.12) Department, dated 03.08.2009, whereby the 1st respondent has rejected the request of the petitioner for permission to conduct religious prayer meetings at his house situated at Kothanalloor Village in Kalkulam Taluk, Kanniyakumari District, without prior approval of the District Collector, Kanniyakumari District.

2. The petitioner wanted to conduct religious prayer meetings in his house at Kothanalloor Village in Kalkulam Taluk, Kanniyakumari District. But, the 4th respondent objected to the same and filed a civil suit in O.S.No.94 of 2001 on the file of the Additional District Munsif, District, against one Chellan and the District Collector, Kanniyakumari, wherein a decree was passed on 19.07.2004 restraining the 1st defendant therein / persons belonging to the Pentecostal Mission from using their house as religious place or prayer meetings without obtaining a prior permission from the District Collector. Thereafter, the petitioner made a representation to the 2nd respondent / District Collector seeking permission to conduct religious prayer meetings in his house and the District Collector, in turn, referred the same to the Revenue Divisional Officer / 3rd respondent for passing appropriate orders. Accordingly, the Revenue Divisional Officer conducted an enquiry and rejected the request of the petitioner on the ground that there is a decree passed by the civil court in this regard. Thereafter, the petitioner approached the Government seeking permission for conducting religious prayer meetings at his house, which was also rejected by the Government on the ground that without a specific order from the District Collector, no religious prayer meetings could be conducted at houses. It is this order which is now under challenge in this writ petition.

3. The learned counsel for the petitioner would submit that the decree of the civil court only directed the petitioner to approach the District Collector for permission. When the

petitioner approached the 2nd respondent, without passing any order, the 2nd respondent had simply referred the matter to the 3rd respondent, who in turn, rejected the request of the petitioner for permission to conduct prayer meetings at his house. According to the learned counsel, the 3rd respondent is not at a competent authority to decide the issue in question.

4. When the learned counsel appearing for the petitioner was apprised of the legal position on the issue in question, on instructions, he fairly conceded to that the petitioner is ready and willing to submit a fresh representation to the 2nd respondent for permission to conduct religious prayer meetings at his house and therefore, it would be suffice to direct the 2nd respondent to consider and pass appropriate orders on the representation in the event any such representation is filed filed by the petitioner.

5. The learned counsel for the respondents 1 to 3 has got no objection for the same. Though the 4th respondent entered appearance through a counsel, there is no representation on behalf of the petitioner.

6. Considering the submission made by the learned counsel for the petitioner at the time of hearing, confining the relief, without going into the merits of the case, this court directs the petitioner to submit a fresh application seeking permission before the 2nd respondent for conducting religious prayer meeting at his house within a period of four weeks from the date of receipt of a copy of this order and on filing such application, the 2nd respondent shall conduct an enquiry by giving an opportunity to the petitioner and pass appropriate orders thereof on merits and in accordance with law within a period of six weeks thereafter. This writ petition is disposed of according with the above directions. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Secretary to Government,
Home Department, Fort St. George,
Chennai 600 009.

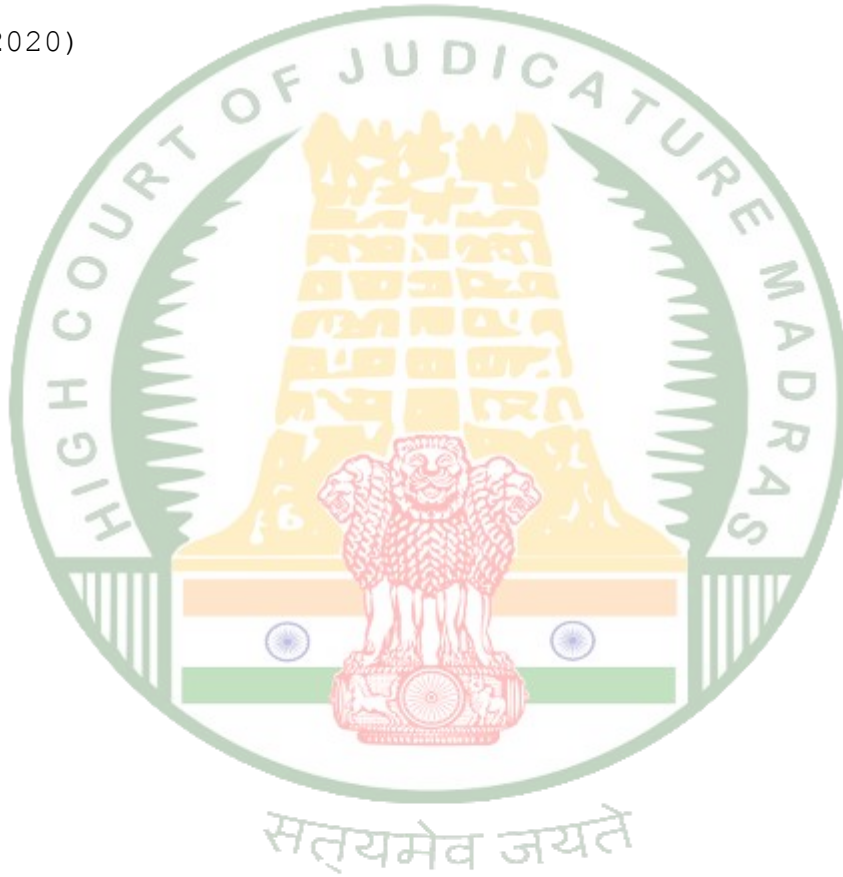
2.The District Collector,
Collector of Kanniyakumari, Kanniyakumari
District, Nagercoil.

3.The Revenue Divisional Officer,
Thakalai, Kanniyakumari District.

+1cc to the Government Pleader SR.93369

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PA (CO)
CB(27/01/2020)



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