

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.11.2019
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 6926 of 2019
and
W.M.P. No. 7670 of 2019

G. Stanley

... Petitioner

-vs-

1. The District Collector,
Erode District,
Erode - 638 101.
2. The Revenue Divisional Officer,
Erode District,
Erode District - 638 101.
3. The Tahsildar,
Mudakurchi Taluk,
Erode - 638 101.
4. The Inspector of Police,
Arachallur Police Station,
Arachallur,
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents from interfering with the Petitioner's right to conduct of religious prayer meeting at Vadakuppam Village in S. No. 42/2, Patta No. 502, at Door No. 122E, Thiruvallurvar Nagar East, Arachallur Post, Erode District.

For Petitioner : Mr. D. Padmanabhan for
Mr. P. Subramanian

For Respondents: Mr. M. Karthikeyan,
Additional Government Pleader

O R D E R

Heard Mr. D. Padmanabhan, Learned Counsel appearing for the Petitioner and Mr. M. Karthikeyan, Learned Additional Government Pleader appearing for the Respondents and perused the materials

placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the Respondents from interfering with the right of the Petitioner to conduct religious prayer meeting at Door No. 122E, Thiruvallurvar Nagar East, Arachallur Post, Erode District.

3. Learned Additional Government Pleader appearing for the Respondents submits that that prior approval from the District Collector under Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972, is required to use any premises for public worship or religious purpose and that the same has not been obtained by the Petitioner for conducting religious prayer meetings. In support of that contention, Counter Affidavit dated 01.11.2019 has been filed by the First Respondent, stating as follows:-

"2. It is submitted that in respect of the order of the Hon'ble High Court, dated on 13.08.2019, the Tahsildar, Modakurichi, Third Respondent herein has inspected the premises of the Petitioner and reported that the Petitioner Thiru. G. Stanley has purchased a House site with an extent of 1360 Sq.ft in R.S. No. 42/2 of Vadugapatty Village, as per Doc. No. 1522/2007 of Sivagigir Sub Registrar Office, Erode District. A residential house has been constructed and dwelled by the Writ Petitioner in that land. House tax is being levied by the Vadugapatty Town Panchayat and the New House Tax Assessment No. is 2600 (Door No. 122G). The first floor of that house is being used as prayer hall. vide the Tahsildar, Modakurichi Ref. No. 3322/2019 (A2) Dated :26.09.2019. But no permission from the competent authority has since been obtained by the Writ Petitioner to conduct religious prayers pertaining to Christianity, when the rule is "no site can be used for the construction of a building intended for public worship or religious purposes without the prior approval, of the Collector of the district, who may refuse such approval, it in his opinion, the use purpose of the site and building is likely to endanger public peace and order vide rule no. 6(4) of the Tamilnadu District Municipality Rules, 1972".

3. It is submitted that the Writ Petitioner has not submitted any application seeking approval for the building to be used for public worship or religious purpose before or after filing this Writ Petition."

The Petitioner has not produced the requisite permission and in the absence thereof, he cannot be entitled to the relief sought

in the Writ Petition, which has the effect of preventing the police personnel from discharging their lawful public duty.

4. It is a well settled legal position that a mere contemplation or possibility that a right may be infringed without any legitimate basis for that right, would not give rise to a cause of action. In such circumstances, the question of granting the relief sought by the Petitioner in the Writ Petition does not arise for consideration. In view of the aforesaid legal position coupled with the facts of this case, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition and he has made an endorsement to that effect, which is recorded.

5. Accordingly, the Writ Petition is dismissed as withdrawn. This would not, however, preclude the Petitioner, on satisfying the prescribed conditions, from applying for approval from the District Collector under Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972, to conduct religious prayer meetings in the premises in accordance with law. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District,
Erode - 638 101.
2. The Revenue Divisional Officer,
Erode District,
Erode District - 638 101.
3. The Tahsildar,
Mudakurchi Taluk,
Erode - 638 101.

4. The Inspector of Police,
Arachallur Police Station,
Arachallur,
Erode District.

+1cc to Government Pleader SR.NO. 91110

W.P. No. 6926 of 2019

vsn-ii(co)
nr 18/11/2019