

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

Review Application No.5 of 2019

in

W.P. No.20700 of 2018

Shalom A.G.Church

rep by Rev.P.Daniel Muthu Krishnan

Ayyanar Koil Street,

Keezhakasakudy,

Karaikal.

..Petitioner in Rev.Apln.5/2019 and

W.P.No.20700/2018

Vs.

1.The Union Territory of Puducherry

rep by The Chief Secretary to Government,

Government of Puducherry,

Chief Secretariat, Beach Road,

Puducherry - 605 001.

2.The Secretary to Government

(Local Administration & Town Planning),

Government of Puducherry,

Chief Secretariat, Beach Road,

Puducherry - 605 001.

3.The District Collector cum Chairman,

Karaikal Planning Authority,

Collectorate, Karaikal.

4.The Sub Collector of Karaikal (Revenue),

Office of the Sub Collector of Karaikal (Revenue),

Karaikal.

5.The Member Secretary,

Karaikal Planning Authority,

Block - A, I Floor,

Perunthalaivar Kamarajar Administrative Complex,

Karaikal.

6.The Junior Town Plan Officer,
Karaikal Planning Authority,
Block - A, I Floor,
Perunthalaivar Kamarajar Administrative Complex,
Karaikal.

7.The Deputy Director,
The Directorate of Survey and Land Records,
The Branch Survey Office, Karaikal.

8.The Tahsildar,
Taluk Office, Karaikal. ... Respondents in W.P.No.20700/2018
and Rev.Apln.No.5 of 2019

W.P.No.20700 of 2018 filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the respondents 3 to 6 to consider the Application Form dated 19.01.2017 submitted by the petitioner for grant of Planning Permission for construction of two-storeyed church (prayer hall) building with RCC Roof at R.S.No.85/8, T.S.No.29, Ward-H, Block-8, Ayyanar Koil Street, Keezhakasakudy Village, Kottucherry Commune Panchayat, Village No.14, Karaikal by taking into account of the undertaking letter dated 02.07.2012, 17.12.2012 & 22.05.2017 submitted by the petitioner.

Review Application No.5 of 2019 is filed under Section 114 of Civil Procedure Code read with Order 47, Rule 1 of Civil Procedure Code against the order dated 19.12.2018 made in W.P.No.20700 of 2018.

For Petitioner : Mrs.Hema Sampath, Senior Counsel
(in W.P. & Review) for Mr.Prakash Adiadam

For Respondents : Mrs.N.Mala,
(in W.P. & Review) Additional Government Pleader (Puducherry)

C O M M O N O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the respondents 3 to 6 to consider the Application Form dated 19.01.2017 submitted by the petitioner for grant of Planning Permission for construction of two-storeyed Church (Prayer Hall) building with RCC Roof at R.S.No.85/8, T.S.No.29, Ward-H, Block-8, Ayyanar Koil Street, Keezhakasakudy Village, Kottucherry Commune Panchayat, Village No.14, Karaikal by taking into account the undertaking letter

dated 02.07.2012, 17.12.2012 & 22.05.2017 submitted by the petitioner.

2.It is the case of the petitioner that they constructed A.G. Church (Prayer Hall) in temporary shed for performing religious worship in the year 1989. Since the temporary shed got damaged during the rainy season, on 21.07.2011, the petitioner had submitted an application before the 5th respondent along with plan and other necessary documents for granting planning permission. When the land was measured by the Government Surveyor, it was found that a portion of the Church lies in Government Poramboke land. By communication dated 02.05.2017, the 5th respondent had directed the petitioner to demolish the existing A.C. Sheet Roof Church building and compound wall and thereafter, directed them to approach the authority for taking further course of action. According to the petitioner, the respondents have not considered the request of the petitioner nor disposed of their representation.

3.When the matter was listed for hearing on 19.12.2018, the learned senior counsel appearing for the petitioner submitted that instead of granting the relief sought for in the Writ Petition, it would be suffice to grant six weeks time to the petitioner to vacate and hand over vacant possession to the authorities without driving them to initiate any further action. The learned senior counsel also submitted that to that effect the petitioner would file an affidavit of undertaking before this Court on or before 21.12.2018. For reporting compliance, the matter was adjourned to 04.02.2019.

4.When the matter is taken up for hearing today, the learned senior counsel appearing for the petitioner submitted that the petitioner has also filed a Review Application to review the order dated 19.12.2018 made in W.P.No.20700 of 2018.

5.It is pertinent to note that pursuant to the order dated 19.12.2018, the petitioner has also filed an affidavit of undertaking wherein they have prayed for three months time for completion of construction work of Church (Prayer Hall) in the patta land after granting of planning permission by the Competent Authority.

6.The learned Additional Government Pleader (Puducherry) submitted that the petitioner has put up construction in the Government Poramboke land and they should remove the superstructure immediately and thereafter, the respondents would consider the planning permission submitted by the petitioner. Since the petitioner themselves have stated that they have constructed the Church in Government Poramboke land, we are not inclined to grant any relief sought for in the Writ Petition.

7. That apart, the petitioner has not pointed out any error apparent on the face of the record in the order dated 19.12.2018.

8. In such view of the matter, we are not inclined to entertain the Writ Petition as well as the Review Application.

9. The learned senior counsel for the petitioner submitted that after the demolition of the Church and handing over possession of the land to the authorities, the authorities may be directed to consider the application submitted by the petitioner for planning permission in accordance with law, for which the learned Additional Government Pleader (Puducherry) has no objection.

10. For the reasons stated above, the Writ Petition and the Review Application are dismissed. In the event of the petitioner demolishing the superstructure put up in the Government Poramboke land and handing over possession to the authorities, thereafter, if the application filed by the petitioner is in order, the authorities may consider the same and pass orders in accordance with law. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

va

To

1. The Chief Secretary to Government,
Union Territory of Puducherry,
Government of Puducherry,
Chief Secretariat, Beach Road,
Puducherry - 605 001.

2. The Secretary to Government
(Local Administration & Town Planning),
Government of Puducherry,
Chief Secretariat, Beach Road,
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3. The District Collector cum Chairman,
Karaikal Planning Authority,
Collectorate, Karaikal.

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7.The Deputy Director,
The Directorate of Survey and Land Records,
The Branch Survey Office, Karaikal.

8.The Tahsildar,
Taluk Office, Karaikal.

+2cc to Mr.Prakash Adiapadam, Advocate sr.no.9294, 9295
+1cc to Government Pleader sr.no.9567

Review Application No.5 of 2019
in
W.P.No.20700 of 2018

rr(co)
nr 28/02/2019

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