



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25287 of 2019

and

W.M.P. No. 24856 of 2019

Shekinah Blessing Centre,  
Registered Trust represented by  
Its Managing Trustee  
P. Jeevanantham,  
Door No. 1/215-2, Pudhu Chakkarapalayam,  
Pazhiyakottai Village,  
Nathakandiyur,  
Kangeyam Taluk,  
Thiruppur District.

... Petitioner

-vs-

1. The District Collector,  
Thiruppur District.
2. The Superintendent of Police,  
Thiruppur District.
3. The Tahsildar,  
Kangeyam Taluk,  
Thiruppur District.
4. The Inspector of Police,  
Kangeyam Police Station,  
Kangeyam Taluk,  
Thiruppur 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 insisting prior permission from the authority, interfering with the Petitioner's right to perform religious spirituals, conducting tuition classes, joint prayers in the premise situate at Door No.1/215-2, Pudur Chakkarapalayam, Palaiyakottai Village, Nathakadiyur, Kangayam Taluk, Thiruppur District consequently directing the Respondents to ensure peace, conducive atmosphere in and around the premise based on the Petitioner's representations dated 13.08.2019 and 24.07.2019.



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For Petitioner : Mr. A.C. Manibharathi

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

O R D E R

Heard Mr. A.C. Manibharathi, Learned Counsel 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 Petitioner, who is a Pastor practicing Christianity, has been conducting prayer meetings at his residence at Door No.1/215-2, Pudur Chakkarapalayam, Palaiyakottai Village, Nathakadiyur, Kangayam Taluk, Thiruppur District after getting plan approval from District Municipality. The Petitioner has filed this Writ Petition to forbear the Respondents from insisting prior permission from the authority, interfering with the right of the Petitioner to perform religious spirituals, conducting tuition classes, joint prayers in the aforesaid premises and to consequently direct the Respondents to ensure peace, conducive atmosphere in and around the premise based on the representations dated 24.07.2019 and 13.08.2019 made by the Petitioner.

3. During the earlier hearing on 30.08.2019, this Court passed the following self-explanatory order:-

"2. Learned Additional Government Pleader appearing for the Respondents submits that the Petitioner has not complied with the requirements of Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972, which reads as follows:-

"(4) 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, if in his opinion, the use, purpose of the site and building is likely to endanger public peace and order.

Provided that an appeal shall lie against the Collector's decision to the Government who may issue such orders as they deem fit."

3. The First Respondent or any official working under him duly authorized in this regard shall inspect the premises of the Petitioner to ascertain whether the same is used for any public worship or religious purpose requiring approval of the District Collector under Rule 6(4) of the Tamil Nadu District



Municipalities Building Rules, 1972, and an affidavit to that effect shall be filed by the First Respondent before the next hearing."

4. The Petitioner then made an application dated 09.10.2019 for permission to conduct public worship in the premises and the same has been rejected by the First Respondent since the conduct of public worship by prayer meetings by the Petitioner is causing inconvenience in the neighbourhood, and the construction for the place of public worship has been made without prior approval as required under Rule 4(3) of the Tamil Nadu Panchayats Building Rules, 1997

5. The Hon'ble Supreme Court of India in Church of God (Full Gospel) in India -vs- K.K.R. Majestic Colony Welfare Association [(2000) 7 SCC 282] while considering the same issue and after referring to the relevant statutory provisions under the Madras City Police Act, 1888, and the Madras Town Nuisances Act, 1889, and the Noise Pollution (Regulations and Control) Rules, 2000, framed by the Central Government under the provisions of the Environment (Protection) Act, 1986, read with Rule 5 of the Environment (Protection) Rules, 1986, has observed as follows:-

"13. In the present case, the contention with regard to the rights under Article 25 or Article 26 of the Constitution which are subject to "public order, morality and health" are not required to be dealt with in detail mainly because as stated earlier no religion prescribes or preaches that prayers are required to be performed through voice amplifiers or by beating of drums. In any case, if there is such practice, it should not adversely affect the rights of others including that of being not disturbed in their activities. We would only refer to some observations made by the Constitution Bench of this Court qua rights under Articles 25 and 26 of the Constitution in Acharya Maharajshri Narendra Prasadji Anandprasadji Maharaj v. State of Gujarat [(1975) 1 SCC 11]. After considering the various contentions, the Court observed that: (SCC p. 20, para 30)

"No rights in an organized society can be absolute. Enjoyment of one's rights must be consistent with the enjoyment of rights also by others. Where in a free play of social forces it is not possible to bring about a voluntary harmony, the State has to step in to set right the imbalance between competing interests..."

The Court also observed that: (SCC p. 20, para 31)

"A particular fundamental right cannot exist in



14. Further, it is to be stated that because of urbanization or industrialisation the noise pollution may in some area of a city/town might be exceeding permissible limits prescribed under the Rules, but that would not be a ground for permitting others to increase the same by beating of drums or by use of voice amplifiers, loudspeakers or by such other musical instruments and, therefore, rules prescribing reasonable restrictions including the Rules for the use of loudspeakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced. We would mention that even though the Rules are unambiguous, there is lack of awareness among the citizens as well as the implementation authorities about the Rules or its duty to implement the same. Noise-polluting activities are rampant and yet for one reason or the other, the aforesaid Rules or the Rules framed under the various State Police Acts are not enforced. Hence, the High Court has rightly directed implementation of the same."

7. It is evident from the aforesaid legal position that the Petitioner is bound to ensure while conducting public worship in his residential premises that no hindrance or disturbance is caused to the general public, and for that purpose, it would be open to the concerned authorities on the basis of subjective satisfaction with concrete evidence to take necessary action under the provisions of the relevant statutes in accordance with law in the event of any nuisance being caused due to noise pollution or for violation of any statutory provisions or for any bonafide reasons.

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neighbourhood, cannot be permitted, more so, when the Respondents have inspected the premises and factually found that it would not be possible to grant any permission under Rule 4(3) of the Tamil Nadu Panchayats Building Rules, 1997. It is needless to point out here 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 this Writ Petition does not arise for consideration.

9. Accordingly, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

s/d-  
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

gsa/vjt

To

1. The District Collector,  
Thiruppur District.
2. The Superintendent of Police,  
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3. The Tahsildar,  
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Thiruppur District.
4. The Inspector of Police,  
Kangeyam Police Station,  
Kangeyam Taluk,  
Thiruppur District.

+1 CC to Govt. Pleader sr 98045.

W.P. No. 25287 of 2019

VGI(CO)  
SP(09/01/2020)