



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 28.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4591 of 2015

and

W.M.P(MD).No.1 of 2015

S.Isaac Josheph Raj (died)

Christudhas

... Petitioner

(petitioner is substituted vide order dated 28.02.2019 in W.M.P (MD).No.15522 of 2018 in W.P(MD).No.4591 of 2015)

Vs

1.The District Collector,
at Nagercoil,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

4.The Inspector of Police,
Eraniel Police Station,
Kanyakumari District.

5.The President,
Neyoor Panchayat,
Kanyakumari District.

6.S.Selvaraj

... Respondents

(R6 is impleaded vide order dated 28.02.2019 in W.M.P(MD).No.2 of 2015 in W.P(MD).No.4591 of 2015)

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to revoke the order passed by the second respondent dated 28.05.2012 and consequently allow the petitioner to conduct prayer in the building bearing door No.9/272, New No.9-113H namely HMS Prayer House, Kadanvilai situated in S.No.653/4B in Chempanvilai Village, Kalkulam Taluk, Kanyakumari District.



For Petitioner : Mr.K.Samidurai
For Respondents (1 TO 4) : Mr.R.Sethuraman
Special Government Pleader
For R5 : No appearance
For R6 : Mr.S.Muthalraj

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ORDER

Heard the learned counsel on either side.

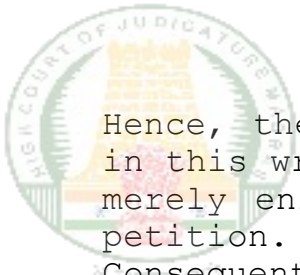
2. The writ petitioner put up a Church in the name and style of HMS Prayer House in the building bearing Door No.9/272, New No.9-113H, Kadanvilai situated in S.No.653/4B in Chempanvilai Village, Kalkulam Taluk, Kanyakumari District. The second respondent by order dated 28.05.2012 directed the writ petitioner not to use the building as a place of public worship or for holding religious function. This order is under challenge in this writ petition.

3. The learned counsel appearing for the petitioner submits that this order adversely affects the petitioner's right and he pointed out that this order was passed without putting him on notice. He also submitted that he had moved the first respondent and made the necessary payments also.

4. I am unable to agree with the contention of the petitioner's counsel. As rightly pointed out by the learned Special Government Pleader, the building in question lies within the Panchayat limits. Therefore, Rule 4 of the Tamil Nadu Panchayat Building Rules, 1997 will clearly apply in this case. Rule 4(3) reads as under:-

"(4)(3) No site shall 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 of the site and buildings is likely to endanger public peace and order. "

5. The said Rule is mandatory in nature. The prior approval of the District Collector is required for construction of a building intended for public worship or religious purpose. It is relevant to note that the Rule contemplates prior approval, it does not contemplate post approval. The writ petitioner, who has put up a Church without the prior approval of the Collector cannot now expect the District Collector to regularize the said construction. The petitioner can of course use it for residential purpose nobody can object to that. But a building that was constructed in violation of Rule 4(3) of the Tamil Nadu Panchayat Building Rules, 1997 cannot be used for public worship or religious purposes.



Hence, the order passed by the second respondent that is impugned in this writ petition cannot be faulted. The second respondent has merely enforced the Rule of Law. I find no merits in this writ petition. The Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar (CS)

rmk

To

- 1.The District Collector, at Nagercoil, Kanyakumari District.
- 2.The Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District.
- 3.The Tahsildar, Kalkulam Taluk, Kanyakumari District.
- 4.The Inspector of Police, Eraniel Police Station, Kanyakumari District.

+1CC TO MR.K.SAMIDURAI, Advocate Sr. No.50742
+1CC TO MR.S.MUTHALRAJ, Advocate Sr. No.51242
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 51346

W.P. (MD) No. 4591 of 2015
28.02.2019

TR (15.04.2019) 3P 8C