



WEB COPY

WP(MD)No.11853 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD)No.11853 of 2019

and

W.M.P. (MD)Nos.8955 and 12823 of 2019

C.Soman

... Appellant

Vs.

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Revenue Divisional Officer,
Kanyakumari District.

3.The Executive Officer,
Mandaikadu Town Panchayat,
Kanyakumari District.

4.The Rev.Father,
Lousial Church,
Mandaikadu,
Kanyakumari District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to take appropriate action against the fourth respondent insofar as it relates to the additional / illegal construction in New Survey No.104/1 of Mandaikadu Village, Kanyakumari District by violating the notification 5.3ii(a) of Ministry of Environment Forest and Climate Change, dated 18.01.2019.

For Petitioner : Mr.V.Sasikumar

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
for R.1 to R.3

: Mr.Ajmal Khan
Senior Counsel
for Mr.Mahaboob Athiff
for R.4



ORDER

[Order of the Court was delivered by **M.DURAISWAMY, J.**]

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The petitioner has filed the above writ petition as a Public Interest Litigation to issue a writ of mandamus directing the respondents 1 to 3 to take appropriate action against the fourth respondent insofar as it relates to the additional / illegal construction in New Survey No.104/1 of Mandaikadu Village, Kanyakumari District by violating the notification 5.3ii(a) of Ministry of Environment Forest and Climate Change, dated 18.01.2019.

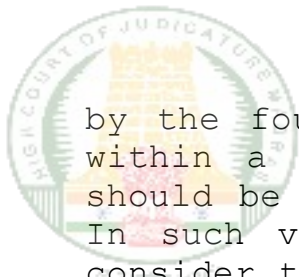
2. It is the case of the petitioner that the fourth respondent is putting up additional construction adjoining the Church which is within the Coastal Regulatory Zone (CRZ-III) violating the rules and therefore appropriate action should be taken against the fourth respondent relating to the additional / illegal construction put up in new Survey No.104/1.

3. Mr.Ajmal Khan, learned Senior Counsel appearing for the fourth respondent submitted that Lousial Church is an ancient Church, which was constructed about 300 years ago and due to the erosion by the Sea, it reconstructed in the year 1845 AD and was renovated in 1912 AD. Further the learned Senior Counsel submitted that the Church is located in the shores of the Mandaikadu Beach. The learned Senior Counsel submitted that the fourth respondent is denying that they are putting up new structure and further submitted that they are only doing repair and reconstruction of existing structure without altering its basis structure, as it is a Century Old heritage building.

4. Mr.V.Sasikumar, learned Counsel appearing for the petitioner produced the photographs in support of his contention and on perusing the same, it could be seen that a new construction is being put up near the Church.

5. Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the application for approval of the additional construction is pending before the first respondent - District Collector, Kanyakumari District at Nagercoil and the first respondent would take a decision and pass orders shortly.

6. Since the application for approval is pending before the first respondent, we are of the considered view that the first respondent can be directed to consider the application submitted



by the fourth respondent and pass orders in accordance with law within a time frame and till such time, the fourth respondent should be restrained from putting up any additional construction. In such view of the matter, we direct the first respondent to consider the fourth respondent's application for approval and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and till the first respondent pass orders in the application, the fourth respondent is restrained from putting up any additional construction in Survey No.104/1 of Mandaikadu Village, Kanyakumari District.

7. With these observations, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORD)

// True Copy //

Sub Assistant Registrar (CS)

Ssl

To

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Revenue Divisional Officer,
Kanyakumari District.

3.The Executive Officer,
Mandaikadu Town Panchayat,
Kanyakumari District.

+1 CC to MR.V.SASI KUMAR, Advocate (SR-104628[F] dated 12/12/2019)

+1 CC to MR.SPL.GP (SR-105290[F] dated 17/12/2019)

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KM/ (27.12.2019) 3P 6C