



WEB COPY

W.P.(MD)No.20927 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD)No.20927 of 2019

and

W.M.P. (MD)No.17503 of 2019

T.Arjunan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.

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

4.Sujin

5.Full Gospel Pentecostal Church,
Mathavilai,
represented by its Chief Bishop,
I.Vinil Sathish.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 1 to 3 from permitting the respondents 4 and 5 to conduct 'Convention Meeting' in Door No.10/31 B(R.S.No.301/22) Mandaikadu Town Panchayat, Kanyakumari District to be held on 26.09.2019 to 29.09.2019 except under due process of law.

For Petitioner : Mr.S.Sankar

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader
for R.1 and R.2

: Mr.P.Sethuraman
Standing Counsel for R.3

R.4 & R.5 - Dispensed with.



ORDER

(Order of the Court was delivered by **T.S.SIVAGNANAM, J.**)

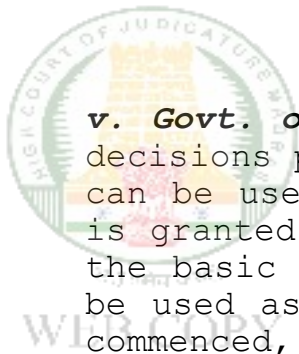
Heard Mr.S.Sankar, learned Counsel for the petitioner, Mr.A.Muthu Karuppan, learned Additional Government Pleader accepting notice on behalf of the respondents 1 and 2 and Mr.P.Sethuraman, learned Standing Counsel accepting notice on behalf of the third respondent. In the light of the order that we propose to pass in this writ petition, notice to the respondents 4 and 5 is dispensed with.

2. The case of the petitioner is that the respondents 4 and 5 are conducting Convention Meeting in the property bearing Door No.10/31 B(R.S.No.301/22) Mandaikadu Town Panchayat, Kanyakumari District, from 26.09.2019 till 29.09.2019 and the same cannot be conducted because a house has been unauthorisedly converted as a Prayer Hall. This issue has been pending before the Principal Seat of this Court in a writ petition filed by the fifth respondent in W.P.No.29074 of 2011, wherein the fifth respondent has prayed for quashing the proceedings of the District Collector, Kanyakumari District, dated 31.12.2009, whereby the permission to use the building as a place of worship was rejected by the District Collector.

3. We are informed by the learned Counsel for the petitioner that in the said writ petition, there are no interim orders in favour of the fifth respondent and one of the villagers, namely, C.Arulselvan, filed an application for impleading himself as party respondent and he has been impleaded as respondent in the said writ petition and the same is still pending.

4. Thus, it *prima facie* appears that as on date, there is no permission for the fifth respondent to use the said building for any other purpose other than as a residential house. However, we find that the Assistant Superintendent of Police, Colachel Sub Division, by proceedings in Na.Ka.No.28SDOC/Mike/2019, dated 14.09.2019, has granted permission for the Convention Meeting to be conducted.

5. On a reading of the said order and the conditions imposed therein, we find that permission has been granted from the view point of law and order situation and whether nuisance will be caused or not. In all probabilities, the Assistant Superintendent of Police, Colachel Sub Division, was unaware of the factual position which we set out in the preceding paragraphs. In fact, the Assistant Superintendent of Police, Colachel Sub Division, has referred to the decision of the Honourable Supreme Court in the case of **Church of God (Full Gospel) in India v. K.K.R.Majestic Colony Welfare Association and others** reported in 2000 (7) Supreme Court Cases 282 and the decision of the Division Bench of this Court in **M.S.Appa Rao**



v. Govt. of Tamil Nadu reported in **(1995) 1 L.W. 319 (Mad.)**. These decisions pertain as to whether in a place of worship, loud speakers can be used or whether cone speakers can be used and if permission is granted, what will be the appropriate noise level, etc. However, the basic question in the instant case is whether the premises can be used as a Prayer Hall. Since the Convention Meeting has already commenced, we do not propose to interdict the same. More so, the Assistant Superintendent of Police, Colachel Sub Division, issued an order that the Convention Meeting has to be conducted subject to the conditions imposed therein. However, the larger issue needs to be addressed by the first respondent - District Collector, Kanyakumari District.

6. Therefore, we direct the first respondent - District Collector, Kanyakumari District, to take note of the representation given by the petitioner on 23.09.2019 and direct one of his Officers to conduct surprise inspection of the area and ascertain the full facts and conduct appropriate action in accordance with law after issuing notice to the respondents 4 and 5. This direction shall be complied with within a period of three weeks from the date of receipt of a copy of this order. We make it clear that no equity will flow in favour of the respondents 4 and 5 on account of the permission granted by the Assistant Superintendent of Police, Colachel Sub Division, vide his proceedings dated 14.09.2019. Apart from that, if the respondents 4 and 5 have violated any of the conditions stipulated by the Assistant Superintendent of Police, Colachel Sub Division, Kanyakumari District, in his proceedings dated 14.09.2019, immediate action should be initiated by the second respondent - Inspector of Police, Mandaikadu Police Station, Kanyakumari District, by following due process of law.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar (AD-II)

/TRUE COPY/

Sub Assistant Registrar

rsb

To

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.



3.The Assistant Superintendent of Police,
Colachel Sub Division,
Kanyakumari District.

+1 CC to M/s.S. SANKAR, Advocate (SR-90594[F] dated 01/10/2019)

+1 CC to M/s.SPL GP (SR-90541[F] dated 30/09/2019)

W.P. (MD) No.20927 of 2019

and

W.M.P. (MD) No.17503 of 2019

27.09.2019

JM/16.10.2019/4P/6C