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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

and

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD) No.27068 of 2019

and

W.M.P. (MD) No.23407 of 2019

C.Albert Sundersingh

... Petitioner

-vs-

1.The Director General
Archaeological Survey of India
Dharohar Bhawan
24, Tilak Marg
New Delhi

2.The Commissioner
Department of Archaeology
Tamil Valarchi Valaagam
Tamil Salai
Egmore
Chennai-600 008

3.The Archaeological Officer (I/C)
Department of Archaeology
83, South Bazaar
Palayamkottai
Tirunelveli-627 002

4.The Archaeological Officer (I/C)
Department of Archaeology
2A, Premier Studio Street
Meenakshipuram
Nagercoil
Kanyakumari District

5.The Member Secretary
Local Planning Authority
51, Melaratha Veethi
Tuticorin

6.The District Collector
Collectorate
Korampallam
Tuticorin District



7.The District Revenue Officer
Collectorate
Korampallam
Tuticorin District

8.The Junior Engineer
Public Works Department
Tuticorin

9.S.E.C.Devasagayam
Bishop
Thoothukudi-Nazareth Diocese
Caldwell Higher Secondary School Complex
Beach Road
Tuticorin
Tuticorin District

10.Rev.P.Yobu Rathinasingh
Priest
St.Patrick Church
Vadakkur
Tuticorin District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned proceedings of the second respondent in Na.Ka.No.E3/3422/2019 dated 27.08.2019 and quash the same as illegal and consequently direct the respondents 1 to 4 to conduct a resurvey of St.Patrick's Church, Vadakkur, Tuticorin District, on the basis of the petitioner's representation dated 12.09.2019.

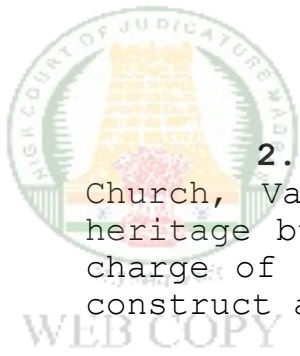
For Petitioner: Mr.B.N.Raja Mohamed

For Respondents : Mr.K.Prabhu
Central Government Standing Counsel for R1
Mr.R.Murugan
Additional Government Pleader for R2 to R8

O R D E R

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioner has filed the above writ petition as a public interest litigation to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned proceedings of the second respondent, dated 27.08.2019, to quash the same as illegal and consequently, to direct the respondents 1 to 4 to conduct a resurvey of St.Patrick's Church, Vadakkur, Tuticorin District, on the basis of his representation dated 12.09.2019.



2. It is the case of the petitioner that St.Patrick's Church, Vadakkur, Tuticorin District, is an ancient church and a heritage building. However, the respondents 9 and 10, who are in-charge of the said church, are trying to demolish the building and construct a new church in the said place.

3. On the same set of facts, earlier, the petitioner filed a writ petition in W.P.(MD) No.14492 of 2019 to issue a writ of mandamus directing the first respondent to notify the St.Patrick's Church, Vadakkur, Tuticorin District, as an ancient monument and consequently, to direct the respondents 1, 2 and 6 herein to take over the church and its property and protest the same, on the basis of his representation, dated 30.05.2019.

4. The Honourable Division Bench of this Court, taking into consideration the case of both sides, by order dated 28.06.2019, disposed of the writ petition directing the respondents 2 to 4 therein to put the respondents 7 and 8, who are the respondents 9 and 10 herein, on notice, elicit their response and thereafter, consider and dispose of the petitioner's representation, dated 30.05.2019, on merits and in accordance with law and communicate the decision taken to the petitioner as well as to the respondents 9 and 10 herein.

5. From the reading of the order, dated 28.06.2019, passed in W.P.(MD) No.14492 of 2019, it is clear that the Honourable Division Bench had directed the respondents 2 to 4 therein to give notice only to the respondents 9 and 10 herein and not to the petitioner. Pursuant to the order passed in the said writ petition, the second respondent filed a report, dated 27.08.2019, stating that the St.Patrick's Church, Vadakkur, Tuticorin District, is not an ancient church and it was constructed only in the year 1965. Further, the second respondent categorically held that there is nothing on record to establish that the church was constructed 100 years ago and while arriving at the said conclusion, the second respondent observed that on inspection, it was found that the walls of the church were constructed with bricks and cement and there were cracks in the walls and plywood sheets were fixed to protect the walls from further damage. When the second respondent had conducted a detailed enquiry and inspection and given a finding that the church is not an ancient church and it was constructed only in the year 1965, the second respondent being an expert in the field, the report of the second respondent cannot be disbelieved or rejected. Further, the petitioner has not attributed any motive on the second respondent for giving such a report. The contention of the petitioner that he should be put on notice cannot be accepted for the reason that even on the earlier occasion, in W.P.(MD) No.14492 of 2019, this Court had directed the Authorities to give notice only to the respondents 9 and 10 herein and not to the petitioner. As



already stated, the petitioner has filed the writ petition only as a public interest litigation and therefore, he cannot be put on notice by the Authorities prior to their inspection. In such view of the matter, we do not find any error or irregularity in the report of the second respondent, dated 27.08.2019.

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6. Accordingly, the writ petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2020

Sub Assistant Registrar(CS)

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To:

- 1.The Director General,
Archaeological Survey of India,
Dharohar Bhawan,
24, Tilak Marg,
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- 2.The Commissioner,
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- 5.The Member Secretary,
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6.The District Collector,
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Tuticorin District.

7.The District Revenue Officer,
Collectorate,
Korampallam, Tuticorin District.

8.The Junior Engineer,
Public Works Department,
Tuticorin.

+1 CC to M/s.SPL.GP (SR-106148[F] dated 20/12/2019)

W.P. (MD) No.27068 of 2019

and

W.M.P. (MD) No.23407 of 2019

19.12.2019

KK/SAR/07.01.2020/5P-10C/