



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.01.2020

CORAM

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P. (MD) No.1819 of 2020

K. Jeyanthi

... Petitioner

Vs.

1.The Superintendent of Police
Nagercoil,
Kanyakumari District.

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

3.The Sub Collector
Pandmanabapuram,
Kanyakumari District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from interfering with the peaceful conducting of prayer in the house of the petitioner along with her family members and relatives, situated in D.No.15/37C, comprised in Survey No.411/3A2, situated in Konamvilai, Maaraypuram, Kaapukadu Post, Kanyakumari District on the basis of the representation given by the petitioner, dated 06-01-2020.

For Petitioner : Mr.K.Samidurai

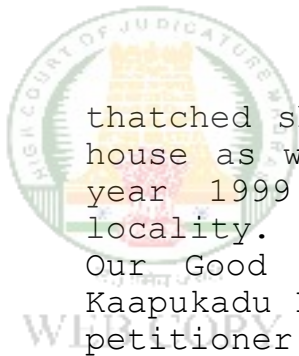
For Respondents : Mrs.Bharathi

Government Advocate (Crl. side)

O R D E R

This petition has been filed seeking for a direction to the respondents not to interfere with the peaceful conducting of prayer in the house of the petitioner along with her family members and relatives, situated at D.No.15/37C, comprised in Survey No.411/3A2, situated in Konamvilai, Maaraypuram, Kaapukadu Post, Kanyakumari District, on the basis of the representation given by the petitioner, dated 06-01-2020.

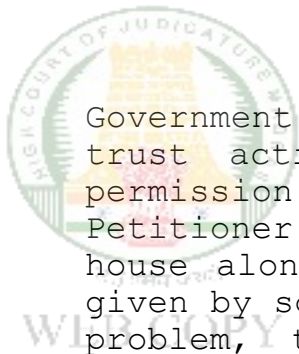
2.It is the case of the petitioner that she had purchased the property bearing RS.No.411/3A2 from one Rathnasihamani through a registered sale deed dated 19.01.1999. Thereafter, she had put up a



thatched shed in the said property and she used the same as prayer house as well as to do social service to the poor people from the year 1999 without creating any law and order problem in the locality. She is also running a trust in the name of "The Jesus Our Good Shepherd Ministries Trust" in Konamvilai, Maaraypuram, Kaapukadu Post, Kanyakumari District. It is the further case of the petitioner that since the said thatched shed is in a dilapidated condition, she had planned to construct a prayer house in the name of her Trust, after getting permission from the District Collector, Kanyakumari District as per rule. The petitioner has been paying property tax to the Panchayat and she is having electricity connection in her name. In this regard, she had sent an application to the District Collector, Kanyakumari on 23.02.2015 seeking plan approval and building permission for the said building. After receiving the representation, the District Collector Office, by communication dated 12.06.2015, informed the petitioner that the said representation has to be sent only through the Executive Officer, Villathurai Panchayat. Thereafter, the petitioner had sent an application to the Executive Officer, who in turn forwarded the same to the District Collector for building permission and approval through Block Development Officer. Thereafter, since no action has been taken, the petitioner had filed a writ petition in W.P(MD) No.1811 of 2016 before this Court. This Court, by order dated 28.01.2016 had directed the District Collector to consider the petitioner's application. Thereafter, the District Collector by the impugned order D.Dis.No.C3/35328/15 dated 07.05.2016, had refused to give permission. Therefore, challenging the order dated 11.12.2019, the petitioner had filed W.P(MD)No.5203 of 2017 before this Court, which was dismissed by this Court with a liberty to seek alternative remedy by approaching the Secretary to Government, Municipal Administration and Water Supply Department. The petitioner had also filed an appeal before the Secretary to Government on 21.01.2020.

3.It is the further case of the petitioner that the appeal for constructing a prayer hall is pending before the Secretary to Government. The petitioner is not conducting any activities regarding religious or Trust in the thatched shed. However, she has been conducting prayers as usual in her residential premises at Door No.15/37C, which is adjacent to the place where permission is sought for. Prayer has been conducted in the residence without causing any disturbance to the neighbours or by using sound equipments. The Respondents 1 and 2 are preventing the petitioner from conducting prayers in the residential house, stating that permission should be obtained from the District Collector. The Petitioner had sent a representation dated 6.1.2020 to the Respondents 1 and 2 to permit her to conduct prayer in her house along with her family members and relatives. However, the 2nd Respondent is not considering the same and thereby, the present Writ Petition has been filed.

4.The learned counsel for the petitioner would submit that the appeal for constructing a prayer hall is pending before the



Government and that the Petitioner is not carrying any religious or trust activities in the thatched shed or in the place where permission is sought for to construct the prayer house. The Petitioner is performing her prayers as usual in the residential house along with her relatives and friends. On a false complaint given by some unknown persons, stating that there is a law and order problem, the 2nd respondent is preventing the Petitioner from conducting prayers in her residential house and the 2nd Respondent is also compelling the Petitioner to get permission from the executive authorities even for conducting prayer in her residential house, which is not required under law.

5. The learned Government Advocate (Crl. side) would submit that if prayers are conducted within the residence of the petitioner without causing disturbance to the general public and without using any speaker or sound system, the police will not have any objection in permitting such prayers. However, if the petitioner in the name of prayer, tries to spoil the peace and harmony in the place, then certainly the police will have to interfere to restore normalcy.

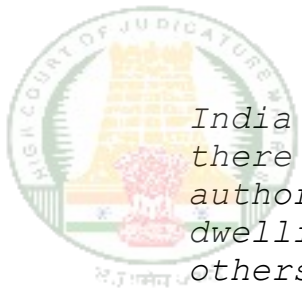
6.The learned counsel for the petitioner would submit that the Constitution of India guarantees fundamental rights and mandates that all persons are equally entitled to freedom of conscience and to exercise their right to freely profess practice and propagate religion and therefore, the petitioner and her brethren belonging to the Christian community are also having such fundamental right and the same cannot be interfered by the respondent police. In support of her contention, she would rely on the earlier orders of the Principal Bench of this Court in W.P.No.2149 of 2018, dated 14.06.2019, W.P.(MD).No.18955 of 2018, dated 31.08.2018 and W.P.(MD) No.710 of 2019, dated 11.01.2019 and would reiterate that the petitioner cannot be prevented from conducting prayers in her residence/house.

7.Heard the learned counsel for the petitioner and the learned Government Advocate (criminal side) for the respondents.

8.The specific case of the petitioner is that the prayer is being conducted at her residence and the same is being attended by the petitioner and her relatives and friends belonging to the same community. Further case of the petitioner is that these prayers are not going to cause any nuisance or hindrance to the others living in the locality and no loud speaker or sound system is being used for conducting the said prayers, whereas on the basis of unfounded complaints the petitioner is prevented from conducting prayers.

9. In W.P.(MD)No.710 of 2019, filed by a person, similarly placed as that of the petitioner herein by order dated 11.01.2019, this Court has held as follows:

"14. Following the above decisions and the

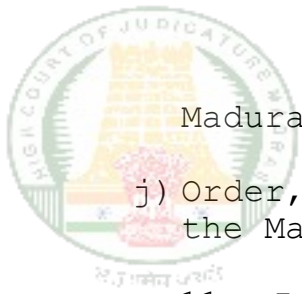


India to the citizens, in the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place without causing nuisance or disturbance to others and without causing hindrance to the general public. It is the duty of the authorities to safeguard the protection of every citizen of this Country to practise constitutional rights guaranteed under the Constitution of India. However, in a civilized Society in the name of religion, activities, which disturb others, in any manner and for bona fide reasons, cannot be permitted and hence, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take necessary action under the provisions of the relevant statutes. But, before resorting to any action, the authorities, on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a right of others, under the Constitution of India, to enforce public order."

10. In the above order, this court had referred to the following earlier orders of this court passed in similar circumstances.

- a) CDJ 2007 MHC 5279 (Sadhu C.Selvaraj Vs. The Collector, Kanyakumari)
- b) 2005 4 CTC 171 (Albert Raj Vs. The District Collector, Kanyakumari District at Nagercoil)
- c) Order, dated 14.08.2012, made in WP(MD)No.10782 of 2006, of the Madurai Bench of the Madras High Court.
- d) Order, dated 13.08.2007, made in WP(MD)No.6732 of 2007, of the Madurai Bench of the Madras High Court.
- e) Order, dated 30.04.2008, made in WP.No.4151 of 2008, of the Madras High Court.
- f) Order, dated 14.12.2012, made in WP(MD)No.13336 of 2007, of the Madurai Bench of the Madras High Court.
- g) Judgment, dated 03.01.2017, made in WA(MD)No.1349 of 2013, of the Madurai Bench of the Madras High Court.
- h) Order, dated 28.11.2011, made in CrI.OP(MD)No.15462 of 2011, of the Madurai Bench of the Madras High Court.

- i) Order, dated 31.08.2018, made in WP(MD)No.18955 of 2018, of the



Madurai Bench of the Madras High Court.

j) Order, dated 09.03.2018, made in CrI.OP(MD)No.3039 of 2018, of the Madurai Bench of the Madras High Court.

11. In view of the above and under such circumstances, this Court does not find any reason as to why the petitioner should not be permitted to conduct such prayers in her own residence.

12. This writ petition is disposed of with a direction to the respondents not to interfere with the rights of the petitioner for conducting prayer along with her relatives and friends at the residence of the petitioner situated at D.No.15/37C, comprised in Survey No.411/3A2, situated in Konamvilai, Maaraypuram, Kaapukadu Post, Kanyakumari District. The petitioner shall ensure that such prayer does not in any way cause any hindrance to the general public and does not in any way give rise to any law and order problem. If any law and order problem is created, then certainly, the respondent police is at liberty to take appropriate action. No costs.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

Ls

To

1. The Superintendent of Police
Nagercoil,
Kanyakumari District.

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

3. The Sub Collector
Pandmanabapuram,
Kanyakumari District.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-3991[F] dated 30/01/2020)

WP. (MD)No.1819 of 2020
30.01.2020