



WEB COPY

W.P(MD).No.8966 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD).No.8966 of 2020

and

W.M.P.(MD).No.8524 of 2020

Stephen

.. Petitioner

Vs.

1.The District Collector,
Kanniyakumari District,
At Nagercoil.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Thakkalai,
Kanniyakumari District.

3.The Executive Officer,
Kaliakavilai Town Panchayat,
Kaliakavilai, Vilavankode Taluk,
Kanniyakumari District.

4.Ebi Solomn

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus forbearing the official respondents from granting any permission for the starting of the prayer house at Survey No.391/14, Kaliakavilai Village, Vilavancode Taluk, Kanniyakumari District by the 4th respondent based on the petitioner's representation, dated 16.07.2020 within the time stipulated by this Court.

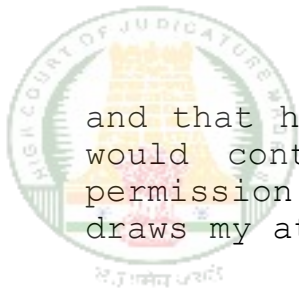
For Petitioner : Mr.R.Iyappan

For Respondents : Mr.P.Mahendran for R1 and R2
Additional Government Pleader
Mr.Siva Ilayaraja for R4

ORDER

Heard the learned counsel on either side.

2.The petitioner is a member of Indian Bethal Church at Karimbavilai, Thiruthuvapuram Post, Kaliakavilai Village, Vilavancode Taluk, Kanniyakumari District. The Church building was put way back in the year 1982 and it is a functioning Church. The petitioner alleges that the fourth respondent herein had broken away



and that he is putting up a Church in the adjacent place. He also would contend that the fourth respondent has not obtained any permission from the District Collector. The petitioner's counsel draws my attention to the relevant statutory rules.

3.The learned counsel appearing for the fourth respondent submitted that the fourth respondent is not putting up any Church building. He has obtained permission from the local body only to put up a residential house.

4.Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 reads as follows:

*"(4) No site 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, purpose of the site and building is likely to endanger public peace and order:
Provided that an appeal shall lie against the Collector's decision to the Government who may issue such orders as they deem fit."*

5.In this case, the fourth respondent has not obtained any prior approval from the District Collector. Therefore, the fourth respondent cannot put up any building for using it as a place of Religious worship. That would be contrary to the statutory rule. However, the fourth respondent also has given an undertaking before this Court that the building to be put up by him in the petition mentioned site will be used only as a residential house and not as a place for public worship or Religious purpose. Since such undertaking has been given in order to adhere to the statutory Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972. I am of the view that the writ petition may be disposed of by recording the said undertaking.

6.The undertaking given by the fourth respondent is recorded and the writ petition is allowed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

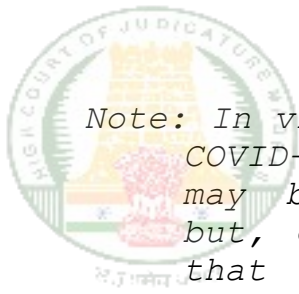
Assistant Registrar(Records)

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/ /2020

Sub Assistant Registrar(CS)

TM



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector, Kanniyakumari District, At Nagercoil.

2.The Revenue Divisional Officer, Padmanabhapuram, Thakkalai, Kanniyakumari District.

+1 CC to Spl GP (SR-14318[F] dated 18/08/2020)

+1 CC to Mr.S. SIVA ILAYARAJA, Advocate (SR-14375[F] dated 19/08/2020)

**W.P (MD) .No.8966 of 2020
17.08.2020**

VB(31.08.2020) 3P 5C