



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.08.2020

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.16938 of 2019

and

W.M.P. (MD) Nos.13516 & 14426 of 2019

WEB COPY

T.Jebagnana Abraham

... Petitioner

Vs

1.The Chairman,
V.O.Chidambaranar Port Trust,
Tuticorin.

2.The Chief Engineer and Estate Officer,
V.O.Chidambaranar Port Trust,
Tuticorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to provide alternative land for shifting the Saint Pentecostal Church, situated opposite to Camp II, Quarters, New Harbour, Thoothukudi within a time frame that may be stipulated by this court.

For Petitioner	: Mr.R.Pon Karthikeyan
For Respondents	: Mr.V.R.Shanmuganathan
	Standing Counsel

ORDER

This Writ Petition is filed to direct the respondents to provide alternative land for shifting the Saint Pentecostal Church, situated opposite to Camp II, Quarters, New Harbour, Thoothukudi.

2.According to the petitioner, in the year 1990, he established a church, namely, Saint Pentecostal Church and the same has been registered under the Societies Registration Act and has also been under the control of the respondents. In the aforesaid church, a prayer hall was constructed by the petitioner measuring to an extent of 200 sq.mts. At this juncture, the 2nd respondent on 17.10.2006 directed the petitioner to remove the unauthorized construction of the prayer hall and has also passed an order of eviction under Section 5 (1) of the Public Premises (Eviction of Unauthorized Occupants) Act 1971, stating that the prayer hall was constructed in the port land.

3.Challenging the aforesaid eviction order, the petitioner has preferred an appeal in CMA.No.33 of 2006 before the Principal District Court, Thoothukudi and the same has been dismissed vide



order dated 18.09.2009. As against the said dismissal, the petitioner filed a writ petition in W.P.(MD) No.11798 of 2009 before this Court and the same has also been dismissed by this Court on 19.06.2019.

4. Thereafter, though the petitioner made a representation dated 20.06.2019 before the 2nd respondent requesting him to allot alternative land for construction of new church and to grant six months time for vacating the premises, the 2nd respondent vide order dated 05.07.2019, rejecting the claim of the petitioner and directing him to hand over the premises within a period of one month. Further, the 2nd respondent informed the petitioner that the request of allotment of alternative land will be considered only after the surrender of the present site to the VOC Port.

5. Thereafter, though the members of the church made a representation dated 16.07.2019 before the 1st respondent seeking to provide alternative land for establishing the new church, so far no action has been taken. In the meantime, a meeting was convened between the parties on 17.06.2019 and 18.06.2019. During the meeting, the 2nd respondent had orally assured to provide alternate land for constructing new church. However, the 2nd respondent has not provided alternate land as per the oral assurance given by him. Hence, the present writ petition.

6. The learned counsel appearing for the petitioner would submit that the petitioner has constructed the said church prior to the Policy Guidelines for Land Management by Major Ports, 2014 and that therefore, as per the undertaken, the 2nd respondent ought to have considered the petitioner's request for granting alternative site for constructing new church.

7. The learned standing counsel appearing for the respondents would submit that the request of the petitioner for allotment of alternative land cannot be considered, in view of the Policy Guidelines for Land Management by Major Ports, 2014. As per Rule 11 (2) (J) of the said policy, no land will be allotted to the religious institution or for religious purpose. Therefore, the learned standing counsel would submit that the contentions of the petitioner cannot be accepted.

8. Heard the arguments advanced on either side and perused the records carefully.

9. It is seen from the records that admittedly, the 2nd respondent, by communication dated 05.07.2019, informed the petitioner that the request of allotment of alternate land will be considered by the Port, after the surrender of the present site, in which, the church was constructed.



10.By taking note of the aforesaid fact and in view of the arguments advanced on either side, this Court is inclined to pass the following direction:-

the 1st respondent is directed to consider the petitioner's representation dated 16.07.2019 and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording opportunities of hearing to the petitioner;

11.This Writ Petition is disposed of, in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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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

The Chairman,
V.O.Chidambaranar Port Trust,
Tuticorin.

W.P. (MD) No.16938 of 2019

27.08.2020

AP(14/09/2020) 3P 2C