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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.11358 OF 2021
AND
W.M.P.NO.12009 OF 2021

A.Javid Basha

... Petitioner

.Vs.

1. The District Collector,
Collectorate Office,
Krishnagiri.
2. The Commissioner,
Municipality Office Krishnagiri,
Krishnagiri.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Krishnagiri.
4. The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Palayapettai, Krishnagiri.
5. Sahar Banu
6. P.M.Shabeer Ahmed
7. Mohammed Ayaz

... Respondents

PRAYER:- Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing Respondent Nos. 1 to 4 from providing amenities such as, electricity, water and sewerage etc., and permitting the Respondents 5 to 7 from developing or constructing, and using the property bearing Door No.9/5, Old No. 5/4, comprised in Survey No.35/1, Rahamathullah Street, Ward No.9, Krishnagiri Palayapettai, Krishnagiri, measuring 1989 square feet for any religious insitution or activity as sought vide representation dated 19.03.2021 by the Petitioner.



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For Petitioner : Mr.N.A.Nissar Ahmed
For Respondents : Mrs.R.Anitha (For R1 & R3)
State Government Counsel
Mr.Jai Venkatesh (For R4)
Mr.P.Baladhandayutham (For R2)
State Government Counsel
Mr.J.Antony Jesus (For R7)

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The matter was heard through ''Video Conference''.

2. This Writ Petition has been filed seeking Writ of Mandamus, forbearing Respondent Nos. 1 to 4 from providing amenities such as, electricity, water and sewerage etc., and permitting the Respondents 5 to 7 from developing or constructing, and using the property bearing Door No.9/5, Old No. 5/4, comprised in Survey No.35/1, Rahamathullah Street, Ward No.9, Krishnagiri Palayapettai, Krishnagiri, measuring 1989 square feet for any religious institution or activity as sought in the representation dated 19.03.2021 made by the Petitioner.

3. It is the case of the Petitioner that Respondent Nos.5 to 7 are attempting to put a construction/Mosque without any building approval from the authorities in a residential locality- and if the building is permitted to be put up in that residential area, it will affect the peace therein. Therefore, the Petitioner has given a representation on 27.03.2021 to the Official Respondents. Since no action has been taken on the representation made by the Petitioner, the Petitioner has come before this Court.

4. Heard Mr.N.A.Nissar Ahmed, Learned Counsel for the Petitioner, Mrs.R.Anitha, Learned State Government Counsel appearing for the First and Third Respondents, Mr.Jai Venkatesh, Learned Counsel appearing for the Fourth Respondent, Mr.P.Baladhandayutham, Learned State Government Counsel appearing for the Second Respondent and Mr.J.Antony Jesus, Learned Counsel appearing for the Seventh Respondent, and perused the materials placed on record.

5. A Counter-Affidavit dated 22.07.2021 has been filed by the Seventh Respondent stating that an application for building



plan has already been submitted on 28.03.2021 to the Krishnagiri Municipality and without awaiting for approval, construction is commenced and it has come up to the roof level. Paragraph No.7 of that Counter-Affidavit is extracted as follows:-

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"7. While so, for catering to the need of local poor children for education, the Jamath decided to build an Arabu Pada Salai along with Teacher's house in the said property. For the said purpose, approval was sought for construction of the building along with plan and necessary fees and the plan with fees was submitted to the Krishnagiri Municipality on 28.03.2021. The application is pending before the Krishnagiri Municipality. While so, with the aim to avoid wastage of resources and increase of cost, the Jamath started construction and the construction has come up to roof level."

6. From the above, it is clear that the Seventh Respondent has got no building plan approval and without building plan, the construction has already been commenced and if the construction is in residential locality without any approved building plan, it will affect the peace in that area. Therefore, there shall be a direction to the Third Respondent to take action including demolition in respect of the subject property against the Private Respondents, who are making construction without any approval in the residential area. Further, there shall be a direction prohibiting the Official Respondents from providing electricity, water and sewerage and other amenities.

7. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The District Collector,
Collectorate Office,
Krishnagiri.



2. The Commissioner,
Municipality Office Krishnagiri,
Krishnagiri.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Krishnagiri.
4. The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Palayapettai,
Krishnagiri.

+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.36004
+1cc to the Government Pleader, S.R.No.35985

W.P.NO.11358 OF 2021

GPL(CO)
PBS/27/08/2021