



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.2477 of 2021

S.Prabha Fernando

... Petitioner

Vs

1. The District Collector,
Kanyakumari District,
at Nagercoil.
2. The Superintendent of Police,
Kanyakumari District,
at Nagercoil.
3. The Revenue Division Officer,
Agateeswaram Taluk,
Nagercoil,
Kanyakumari District.
4. The Tahsildar,
Agateeswaram Taluk,
Kanyakumari District.
5. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
6. Nanjil Michael
7. Sandhiya
8. Beni
9. Dhinakaran

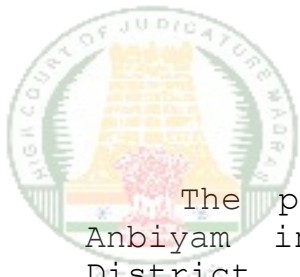
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 to 5 to take action against the private respondents 6 to 9 for ex-communicating the petitioner and his family members from the church and its activities by considering the petitioner representation dated 24.09.2020.

For Petitioner : Mr.G.Aravinthan

For R1 to R5 : Mr.R.Murugan

Additional Government Pleader



ORDER

The petitioner is the member of Pastorate Committee of 67 Anbiyam in Shrine of Our Lady of Ransom Church, Kanyakumari District. According to the petitioner, there was a serious dispute among the members of the Pastorate Committee in regard to the missing of one silver scepter, which was used for opening of the jewel box. The jewel box, which has to be opened periodically, could not be opened, in the absence of one of the 4 keys (silver scepter).

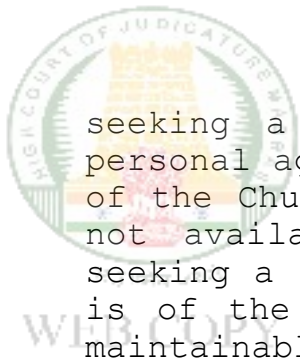
2.The petitioner apprehends that there was a dispute in regard to the conduct of the election to the Pastorate Committee and therefore, he was unnecessarily blamed for the missing of the silver scepter and the private respondents colluded together and excommunicated him from the Church. This was done only to prevent the petitioner raising the election issue to the Pastorate Committee. According to the petitioner, he and three former executives have to pay a sum of Rs.2,00,000/- for the missing of silver scepter, as fine, apart from the action of excommunication by the Church Trust. Therefore, the petitioner is before this Court seeking issuance of writ of mandamus, directing the respondents 1 to 5 to take action as against the private respondents.

3.From the above factual narrative, it could be seen that it is completely a private dispute between the petitioner and the private respondents (respondents 6 to 9) herein. Unfortunately, the private dispute has been sought to be set right within the writ jurisdiction of this Court by cleverly seeking a direction to the State authorities. In a matter like this, the claim of the petitioner and the counter claim of the private respondents and the accusation against each other cannot be a subject matter of adjudication by a constitutional Court, as it involves certain factual controversies and this Court would ultimately be not in a position to grant the relief as prayed for by the petitioner. In any event, only on the basis of self-serving averments of the petitioner, a direction cannot be issued to the responsible State authorities to interfere with the Church matters and to unnecessarily visit the place of worship, which would only create distress among the members of the Church.

4.In view of the circumstances, the best course, which is open to the petitioner, is to approach the civil Court, in case, he is very much aggrieved by the action taken against him and to agitate his right. In the civil proceedings, the petitioner can always question the validity of the so called action initiated by the Church members and any interim protection could also be the subject matter of adjudication before the civil Court.

5.Instead of choosing the right remedy, the petitioner has found the easier contrived route of approaching this Court by

<https://hcservices.ecourts.gov.in/hcservices/>



seeking a seemingly innocuous direction in order to settle his personal agenda and in order to settle his personal grudge with some of the Church members. The constitutional jurisdiction is certainly not available for such litigants, who have an inner agenda in seeking a relief as prayed for in this writ petition and this Court is of the considered view that such writ petition is not at all maintainable, as being lacking in *bona fides*.

6.The Writ Petition therefore stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District at Nagercoil.
2. The Superintendent of Police,
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3. The Revenue Division Officer,
Agateeswaram Taluk,
Nagercoil, Kanyakumari District.
4. The Tahsildar,
Agateeswaram Taluk,
Kanyakumari District.
5. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

+1CC to THE SPECIAL GOVERNMENT PLEADER (SR-5110[F] dated 15/02/2021)

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-4485[F] dated 11/02/2021)

Order made in
WP (MD) No.2477 of 2021
11.02.2021

MM

SRS/01.03.2021/3P/8C