



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.5450 of 2021

and

W.M.P. (MD) .No.4340 of 2021

G.Marimuthu

.. Petitioner

Vs

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 3.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
4. The Block Development Officer,
Manamadurai,
Sivagangai District.
5. The Inspector of Police,
SIPCOT Police Station,
Manamadurai,
Sivagangai District.
6. The President,
Kalkurichi Village Panchayat,
Manamadurai Taluk,
Sivagangai District.

7. Alen Issac Devadoss

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the Respondents 1 to 6 to remove the unauthorized, illegal construction of Church building made by the 7th respondent in Survey No.218/7B1B in M.G.R.Nagar, Dhayapuram Village, K.K.Pallam Revenue Village, Manamadurai Taluk, Sivagangai District.



For Petitioner

: Mr.M.Karthikeyavenkitachalapathy

For Respondents

: Mr.K.Mu.Muthu,
Additional Government Pleader
for R1 to R5
Mr.R.Karunanithi
for Mr.V.Selvakumar for R7

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O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

This Writ Petition has been filed, seeking for issuance of a Writ of Mandamus, directing respondent Nos.1 to 6 to remove the unauthorized illegal construction of Church building made by the 7th respondent in Survey No.218/B1B in M.G.R.Nagar, Dhayapuram Village, K.K.Pallam Revenue Village, Manamadurai Taluk, Sivagangai District.

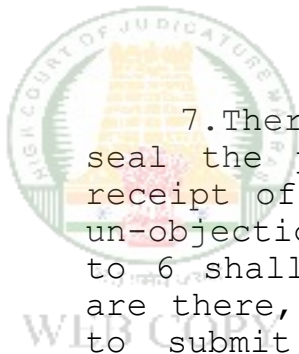
2.We have heard Mr.M.Karthikeyavenkitachalapathy, learned counsel for the petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for respondent Nos.1 to 5 and Mr.R.Karunanithi, learned counsel for the seventh respondent.

3.Pursuant to the order of this Court, the sixth respondent, President of Kalkurichi Village Panchayat has appeared through Video Conference. When we questioned her as to how she could give approval for the place of worship, she replied that earlier the Special Officer has granted permission, therefore, she has granted permission and now she has realized the mistake and she has no power to grant building plan approval for a place of worship.

4.The Executive Officer of the Panchayat has also appeared through Video Conference and submitted that he has mistakenly granted the approval.

5.The learned counsel for the seventh respondent submitted that the Church was in existence for several years and there are documents to show that the land was bequeathed for construction of a Church. Further, approval has been obtained for demolition of the old Church and construction of a new Church.

6.The crucial question is whether the a place can be converted into a place of worship without prior approval of the District Collector. Assuming that the place was used as a place of worship by the seventh respondent earlier and he has demolished it and reconstructed it into a new construction, even then the Panchayat has got no jurisdiction to grant planning permission without the approval of the District Collector. Therefore, a fundamental error was committed by the Panchayat authorities both during the present time as well as earlier.



7. Therefore, the seventh respondent is directed to lock and seal the premises by himself within two weeks from the date of receipt of a copy of this order and change the venue to some other un-objectionable place. If he does not do so, then respondent Nos.4 to 6 shall lock the premises. However, if any personal belongings are there, they can be removed. The seventh respondent is permitted to submit an application within one week from today, seeking permission to put up a place of worship and if such application is filed, the District Collector, Sivagangai District shall follow the procedures and pass orders on merits and in accordance with law within a period of ten days thereafter.

8. We make it clear that this order has been passed purely noting the legal position that no person has fundamental right to convert a place into a place of worship without prior approval of the competent authority and taking note of the statutory position and the various directions issued by the Government from time to time regulating the place of worship by all religions. This order does not cause any aspersions on the seventh respondent as he is stated to be carrying on charitable activities and running a hospital for treating persons affected by leprosy.

9. The Writ Petition is disposed of with the above directions and observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Sivagangai District,
Sivagangai.
2. The Superintendent of Police,
Sivagangai District,
Sivagangai.



3. The Tahsildar,
Manamadurai Taluk,
Sivagangai District.

4. The Block Development Officer,
Manamadurai,
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5. The Inspector of Police,
SIPCOT Police Station,
Manamadurai,
Sivagangai District.

6. The President,
Kalkurichi Village Panchayat,
Manamadurai Taluk,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-18059[F] dated 29/04/2021)

W.P. (MD) No.5450 of 2021
28.04.2021

GS(29.04.2021) 4P 8C