



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.(MD)No.1410 of 2021

WEB COPY

S.Prabha Fernando

... Appellant/Petitioner

Vs.

1. The District Collector,
Kanyakumar District,
at Nagercoil.
2. The Superintendent of Police,
Kanyakumar District,
at Nagercoil.
3. The Revenue Division Officer,
Agasteeswaram Taluk, Nagercoil,
Kanyakumar 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/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD) No.2477 of 2021, dated 11.02.2021.

Prayer in WP(MD). 2477/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court 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 dt 24.9.2020.

For Appellant : Mr.K.Sivabalan for
Mr.G.Aravinthan

For Respondents : Mr.R.Baskaran
Standing Counsel for Government
for R1 to R5



J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.K.Siva Balan, learned counsel appearing for the appellant and Mr.R.Baskaran, learned Government Counsel appearing for the respondents 1 to 5.

2. This appeal filed by the writ petitioner is directed against the order dated 11.02.2021 in W.P(MD).No.2477 of 2021. The appellant filed the writ petition for a direction upon the respondents 1 to 5 to take action against the private respondents on the allegation that he and his family members have been excommunicated from the Shrine of our Lady of Ransom Church, Kanyakumari District.

3. It appears that a silver article which was used for performing religious functions went missing from the jewel box. The appellant alleges that he is one of the member of the Pastorate and he is the Treasurer of the Pastorate Committee and the other members have unnecessarily blamed him for the missing silver article and directed the appellant and three other former executives to pay a sum of Rupees Two Lakhs for the missing silver article.

4. The appellant also alleged that he and his family members had been prevented from offering prayer in the Church, which according to the appellant is the clear case of excommunication.

5. The learned Single Bench dismissed the writ petition stating that the remedy of the appellant lies elsewhere and the constitutional jurisdiction is not available to litigants as that of the appellant, who have an inner agenda in seeking a relief as prayed for in the writ petition. Therefore, the learned Writ Court came to the conclusion that the writ petition lacks *bona fide*. He is aggrieved with the observations made by the learned Single Bench and would like to make a small rider to the observations.

6. There are two aspects which flows from the allegations made by the appellant. First is with regard to missing of silver article. Second is with regard to the allegation that the appellant and his family members had been prevented from offering prayers in the Church, which according to the appellant is an act of excommunication. On the first aspect, as rightly observed by the learned Writ Court, the appellant's remedy is elsewhere and not by way of a writ petition. So far as the second aspect is concerned, if the allegation of excommunication is proved, then the matter has to be brought to the notice of the law enforcing agency and the petitioner cannot seek for a Writ of Mandamus, especially, for taking action against the private respondents, who are stated to be



the members of the Pastorate Committee.

7. We find that the appellant has submitted a representation on 24.09.2020 to all the official respondents and since the representation was not considered, the writ petition was filed. We find that the representation is verbose and not to the point. The appellant has mentioned so many other grievances in the representation, which is not the case as projected before this Court. Therefore, on the said representation, no enquiry can be conducted. Therefore, we agree with the view expressed by the learned Writ Court with the slight modification and dispose of this writ appeal by giving liberty to the appellant to give a representation, which should be concise and to the point and clearly mentioning as to how the alleged act of excommunication has been meted out to him and his family members and if such representation is given to the fifth respondent, an enquiry to be conducted by the fifth respondent on the same, after notice to the appellant and the respondents 6 to 9, who were stated to be the members of the Pastorate Committee and to all other persons whom may be interested in the matter. The enquiry be conducted by the fifth respondent within a period of two weeks

8. Accordingly, this **writ appeal stands disposed of**. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

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:

1. The District Collector,
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at Nagercoil.
2. The Superintendent of Police,
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at Nagercoil.

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



3. The Revenue Division Officer,
Agasteeswaram Taluk, Nagercoil,
Kanyakumar District.

4. The Tahsildar,
Agateeswaram Taluk,
Kanyakumari District.

5. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-23241[F] dated 20/07/2021)

+1 CC to M/s.GP (SR-23344[F] dated 20/07/2021)

W.A. (MD)No.1410 of 2021
19.07.2021

RD(26.07.2021) 4P 8C