



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. [MD]No.6764 of 2019

and

W.M.P. [MD]Nos.5402 & 5403 of 2019

R.Thurairaj

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Assistant Director,
Town & Country Planning,
Collectorate Campus,
Nagercoil, Kanyakumari District.

3.The Executive Officer,
Karungal Town Panchayat,
Kanyakumari District.

4.The Superintendent of Police,
Kanyakumari District.

5.The Junior Engineer,
TANGEDCO,
Karungal, Kanyakumari District.

6.Kumar Nesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to forthwith remove the illegal and unauthorized construction of the sixth respondent made in Survey No.591-16, Midalam Village, Vadalikoodal Vilai, Mela Sundavilai, Karungal Post, Kanyakumari District.

For Petitioner : M.R.Russel Raj

For Respondents 1 to 4 : Mr.R.Baskaran

Standing Counsel for Government

For Respondent No.5 : Mr.A.L.Ramanathan

For Respondent No.6 : Mr.S.C.Herold Singh



O R D E R

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

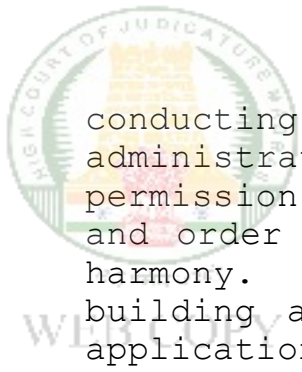
With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.Heard MrR.Russel Raj, learned Counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 to 4, Mr.AL.Ramanathan, learned Counsel appearing for the fifth respondent and Mr.S.C.Herold Singh, learned Counsel appearing for the sixth respondent.

3.This Writ Petition has been filed for a direction directing the respondents to remove the illegal and unauthorized construction of the sixth respondent made in Survey No.591-16, Midalam Village, Vadalikoodal Vilai, Mela Sundavilai, Karungal Post, Kanyakumari District.

4.The sixth respondent is running a prayer hall which he terms to be a Church. It is settled legal position that no person can convert a building into a prayer house without the prior permission of the competent authority. The third respondent Town Panchayat had filed counter affidavit stating that the sixth respondent is running a prayer house under Christian Congregation of Pentecost in the disputed land in Survey No.591/16, Midalam Village, Vedalikoodal Vilai, Mela Sundavilai, Karungal Post, Kanyakumari District, without obtaining any permission either to construct the building or to convert the same into a place of worship under the Rules framed under the Tamil Nadu District Municipalities Building Rules, 1972 under Tamil Nadu District Municipalities Act, 1990.

5.Further, it is stated that no prior permission or approval has been obtained from the competent authority ie., from the District Collector as per the Tamil Nadu District Municipalities Building Rules, 1972. Further, it is stated that the sixth respondent was directed to stop the worship in the said building by notice dated 25.11.2019. In view of the proceedings issued to stop the prayer permitting the people other than his family members, the sixth respondent has stopped the prayer meeting in the said building. It is further submitted that an application was filed by the sixth respondent for permission to use the building as a prayer hall and that he is going to put up construction. The third respondent would state that no permission was granted for the construct and the application has been forwarded to the District Collector, Kanyakumari District by proceedings dated 06.05.2019. Since, there is strong objection in the locality for



conducting prayers permitting outsiders, the District administration has not granted any permission and if any permission is granted for religious worship, that may create law and order problem in the locality which may disturb the communal harmony. Hence, the third respondent has not recommended for any building approval to the sixth respondent except forwarding the application to the competent authority.

6.Learned Counsel for the sixth respondent submitted that the sixth respondent had been waiting for quite a long time and he has started construction.

7.If that is so, it is illegal. As stated by the competent authority now, the proposal is pending before the District Collector. Therefore, unless and until permission is granted and building plan approval is issued, no construction can be made. As undertaken by the petitioner, pursuant to the notice issued by the Town Panchayat on 25.11.2019, the sixth respondent shall not permit any person other than the family members to come into for conducting any prayers. If the third respondent finds any unauthorised construction, the same can be removed after notice to the sixth respondent. The above direction be complied with within a period of two [2] weeks from the date of receipt of a copy of this order.

8.With the above direction, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MR

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,
Kanyakumari District,
Nagercoil.
- 2.The Assistant Director,
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- 5.The Junior Engineer,
TANGEDCO,
Karungal, Kanyakumari District.

+1 CC to SPL GP (SR-19515[F] dated 17/06/2021)

+1 CC to MR.S.C.HEROLD SINGH, Advocate (SR-19478[F] dated
17/06/2021)

ORDER MADE IN
W.P. [MD]No.6764 of 2019
16.06.2021

KM(29.06.2021) 4P 8C