



WEB COPY

W.A.(MD) No.1272 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) No.1272 of 2020

and

C.M.P. (MD) No.7233 of 2020

Raj Naickar ... Appellant/4th Respondent

-vs-

1.S.Mohan ...1st Respondent/Petitioner

2.The Superintendent of Police
Virudhunagar District
Virudhunagar

3.The Tasildhar
Sriviliputhur Taluk
Virudhunagar District

4.The Inspector of Police
Taluk Police Station
Sriviliputhur
Virudhunagar District

... Respondents 2 to 4/Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 10.12.2019, passed in W.P.(MD) No.1151 of 2019, on the file of this Court.

Prayer in WP(MD). 1151/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, forbearing the Respondents from interfering with the peaceful conducting of prayer in house of the Petitioner along with his family members and relatives, situated in Door No.7/70, Nachiyarpatti Village, Srivilliputtur Taluk, Virudhunagar District .

For Appellant : Mr.M.Karthikeyavenkatachalapathy

For Respondents : Mr.K.Samidurai for R1

Mr.K.P.Krishnadoss

Special Government Pleader for R2 to R4

J U D G M E N T

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

This writ appeal by the fourth respondent in the writ petition is directed against the order dated 10.12.2019 passed in W.P.(MD) No.1151 of 2019.



2. The writ petition was filed by the first respondent herein to forbear the official respondents from interfering with the peaceful conducting of prayers in his house along with his family members and relatives situated in Door No.7/70, Nachiyarpatti Village, Srivilliputtur Taluk, Virudhunagar District.

3. The appellant before us got himself impleaded in the writ petition, which was ordered on 10.12.2019. The learned Single Bench took note of the order, dated 11.01.2019 passed in W.P.(MD) No.710 of 2019 as well as the other orders passed by this Court in the writ petitions and criminal original petitions filed under Section 482 of the Code of Criminal Procedure, 1973 and disposed of the writ petition forbearing the Inspector of Police, Taluk Police Station, Srivilliputtur, Virudhunagar District / fourth respondent herein from interfering with the rights of the first respondent / writ petitioner conducting prayer along with relatives and friends at his residence situated in the above mentioned address.

4. The fourth respondent / appellant herein would submit that what is being done by the first respondent / writ petitioner is to run a prayer house and it is not a prayer in which the family members and relatives of the first respondent / writ petitioner alone are participating. Certain photographs have been filed in the typed set of papers to establish a case that the subject place is used as a Church.

5. The learned counsel appearing for the first respondent / writ petitioner would submit that only in an area of 2 Cents of land a small shed has been constructed and prayer is conducted by the first respondent / writ petitioner along with his family members and friends and it is not a place of worship for general public. However, it is not for the Writ Court to say as to whether a place is being used as a place of worship or not and it is for the Revenue Authorities, more particularly, the District Collector to say so. We find from the reply given by the President of Ayan Nachiyarkovil Village Panchayat, Srivilliputtur Union, Virudhunagar District, under the Right to Information Act, 2005 that no permission has been granted to run a prayer house or a place of worship in the particular survey number. Furthermore, the R.T.I. reply says that no approval has been granted for the construction. In this regard, it is relevant to take note of the Tamil Nadu Panchayats Building Rules, 1997, more particularly, Rule 4(3), which reads as follows:

"Rule 4(3) : No site shall be used for the construction of a building intended for public worship or religious purposes without the prior approval of the Collector of the district who may refuse such approval, if in his opinion, the use of the site building is



likely to endanger public peace and order."

6. As per Rule 4(3) of the above Rules, if a site is to be used as a place of worship, prior approval of the District Collector is required and he may either grant or refuse approval. Admittedly, there is no approval for the site of the first respondent / writ petitioner to be used as a prayer house, but the explanation given before us is that it is only in an extent of 2 Cents of land. All these issues have to be decided by the District Collector and not by the Writ Court. Therefore, we are inclined to modify the order and directions issued in the writ petition by deleting the observations / protection granted in Para 13 of the impugned order.

7. Accordingly, the writ appeal is partly allowed and the findings rendered in Para 13 of the impugned order dated 10.12.2019 in W.P.(MD) No.1151 of 2019 are set aside. The District Collector, Virudhunagar District, is directed to depute one of his officers and conduct a surprise inspection of the site in question and ascertain full facts and proceed in accordance with law. Such an inspection should be conducted within a period of three weeks from the date of receipt of a copy of this Judgment. Since the District Collector, Virudhunagar District, is not a party to the writ appeal, Registry is directed to mark a copy of this Judgment to him. In addition, the learned Special Government Pleader appearing for the official respondents also shall intimate the above directions to the District Collector.

8. At this juncture, the learned counsel appearing for the first respondent / writ petitioner submitted that the first respondent is also seeking for permission to construct a Church. It is not open for this Court to express any opinion on the said prayer. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (ADII)

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/ /2021

Sub Assistant Registrar(CS)

Note :

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To:

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Tasildhar,
Sriviliputhur Taluk,
Virudhunagar District.

3.The Inspector of Police,
Taluk Police Station,
Sriviliputhur,
Virudhunagar District.

Copy to

The District Collector,
Virudhunagar District

+1 CC to M/s.SPL GP (SR-15463[F] dated 08/04/2021)

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-15540[F] dated 08/04/2021)

+1 CC to M/s.M.KARTHIKEYA VENKITACHALAPATHY, Advocate (SR-15523[F]
dated 08/04/2021)

W.A. (MD) No.1272 of 2020

and

C.M.P. (MD) No.7233 of 2020

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SSS (CO)

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