



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WP (MD) No. 17732 of 2021

WEB COPY

K.Thangamuthu @ David

... Petitioner

vs.

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

2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

3.The Executive Officer,
Palappallam Panchayat, Palappallam,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering with the peaceful conducting of prayer in the house of the petitioner along with his family members, relatives and friends situated at No.6/19A, West Kollanvettivizhai, Palappallam Post, Kanyakumari District - 629 159 on the basis of the representation given by the petitioner dated 20.09.2021.

For Petitioner

: Mr.R.Maheshwaran

For R1 & R2

: Mr.T.Senthilkumar,
Additional Public Prosecutor

ORDER

This writ petition has been filed for forbearing the respondents from interfering with the petitioner's activity of conducting prayer meetings in the petition mentioned premises. The learned Additional Public Prosecutor appearing for the respondent police would submit that as per the statutory scheme, before constructing a place of worship, prior approval from the District Collector concerned must be obtained. He laid particular stress on the expression "prior". While sitting in the Division Bench, I had occasion to consider the very same contention. Vide order dated



19.09.2019 made in WP.(MD) Nos.6493, 6494 and 6495 of 2019, I held as follows :

"6.The expression used in the Rule is "prior approval". The term "prior" has been defined in Black's Law Dictionary, (Eighth Edition) as "preceding in time or order". Therefore, a person intending to use a site for putting up a building for religious purposes will have to take the approval of the District Collector before commencing the construction. The Collector can refuse approval if in his opinion it is likely to endanger public peace and order. An appeal shall lie against the Collector's decision to the Government. The fact that an appeal is provided in the statute is a clear indicator of the importance attached to the entire scheme. The provision does not talk of "post approval". One cannot put up a temple in violation of this Rule and then present the authority with a fait accompli.

7.If the law prescribes that something is to be done in a certain manner, it shall be done in that manner and not in any other manner. The consequence has been clearly, categorically and unambiguously laid down. One must take the prior approval of the District Collector for the construction of a building intended for public worship and religious purposes and only thereafter start construction. The meaning of the Rule is simple and plain. It only requires strict implementation and application. If a building for public worship or religious purpose has been constructed without the prior approval of the District Collector, then law will have to take its own course."

2.Only if the petitioner had obtained such prior approval for running a place of worship, the petitioner will be justified in seeking to restrain the respondents from interfering with the activity of conducting prayer meetings. In the case on hand, the petitioner is not having any such prior approval from the District Collector concerned. Hence, this writ petition will not lie.

3.Leaving open all the contentions of the petitioner, the writ petition is dismissed. Connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Records)

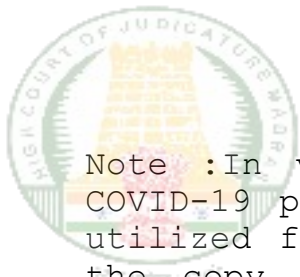
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/ /2021

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 Superintendent of Police,
Kanyakumari,
Kanyakumari District.
- 2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
- 3.The Executive Officer,
Palappallam Panchayat, Palappallam,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(10.12.2021) 3P 5C