



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2360 of 2022

And

W.M.P.No.2518 of 2022

Arulmigu Sagayamadha Church
Rep. by its Parish Priest
Rev.Fr.Mariya Anbu

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by Revenue Divisional Officer,
Sriperumpudur.

2.M.Elias

3.The Inspector of Police,
Oragadam Police Station,
Kancheepuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent made in Na.Ka.265/2021/A1 dated 23.12.2021 and quash the same and consequently direct the respondents not to interfere with the activities and smooth functioning/ administration of the petitioner church situated in O.S.No.274 and New S.No.274/3 of Panruti Village, Sriperumbudur Taluk.

For Petitioner : M/s.G.Selvi George

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader
Mr.B.Narayanan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent made in Na.Ka.265/2021/A1 dated 23.12.2021 and to quash the same and to consequently direct the respondents not to interfere with the activities and smooth functioning/ administration of the



petitioner Church situated in O.S.No.274 and New S.No.274/3 of Panruti Village, Sriperumbudur Taluk.

2.The case of the petitioner is that the petitioner Church was established in the year 1979 by Parish Priest Rev.Fr.P.C.Thomas and he purchased the landed property of 80 cents of land in O.S.No.274 and New S.No.274/3 of Panruti Village, Sriperumbudur Taluk for religious purpose vide sale deed dated 24.09.1979 and the sale consideration was contributed by the Diocese of Mylapore - Madras and the construction was also put up by the Diocese with the contribution given by the Parishners and right from the date of purchase, the petitioner Church is in absolute enjoyment of the property and the petitioner used to conduct regular masses and thus catering to the religious needs of the people belonging to that area.

3.The further case of the petitioner is that the second respondent was working as an Assistant to the then Parish Priests and he requested the then Parish Priest's permission to put up a small petty shop for his livelihood and out of sympathy, he was permitted to put up a petty shop in 2 cents of land, however, taking advantage of the same, he tried to trespass into the major portion of the land. Hence, there was dispute inbetween the petitioner and the second respondent and they filed suits in O.S.Nos.43 of 2017 and 154 of 2014 seeking declaration to declare the title of the property and the said suits are pending on the file of the Sub-Court, Kancheepuram. Whiles, the first respondent initiated proceedings under Section 145 of Cr.P.C. and aggrieved by the same, the petitioner filed W.P.No.4244 of 2016.

4.The further case of the petitioner is that this Court vide order dated 08.11.2021 made in W.P.No.4244 of 2016 disposed of the writ petition by observing that as far as the law and order issues are concerned, it is for the competent Authorities of the Government of Tamil Nadu to initiate appropriate action, if any party violates the Rule of law. Accordingly, the parties are at liberty to establish their respective rights before the Civil Court or competent Court of law and pursuant to the said order, the impugned order was passed. Hence, this writ petition.

5.The learned counsel appearing for the petitioner submitted that the petitioner already filed W.A.No.3067 of 2021 before the Hon'ble Division Bench of this Court challenging the proceedings initiated by the first respondent under Section 145 of Cr.P.C. and the same is pending, however, the very same Authority has passed the impugned order under Section 107 of Cr.P.C., which is not sustainable one. The learned counsel further submitted that the first respondent wrongly interpreted the order of this Court dated 08.11.2021 made in W.P.No.4244 of



2016 and passed the impugned order at the instigation of the second respondent, restraining the petitioner to deal with the property is not sustainable one.

6. The learned counsel appearing for the second respondent submitted that the second respondent is the owner of the subject property and he did not execute any sale deed in favour of the petitioner. The learned counsel further submitted that in the subject property, Church is not in existence, however, it is assumed that Church is in existence and the petitioner muted the revenue records, for which civil suits are pending before the competent civil forum. Unless the competent civil forum decides the issue, conducting prayer in the subject property is not sustainable one. Further patta is not a title and unless the competent civil forum decides the issue, the petitioner is not entitled for any relief before this Court.

7. The learned Additional Government Pleader submitted that there are suits pending inbetween the petitioner and the second respondent with respect to the title over the subject property and hence there is law and order problem. He further submitted that the first respondent has the power to maintain law and order problem in the particular locality in terms of Section 107 of Cr.P.C. The petitioner already filed W.P.No.4244 of 2016 challenging the proceedings initiated under Section 145 of Cr.P.C. before this Court and this Court vide order dated 08.11.2021 disposed of the said writ petition by observing that as far as the law and order issues are concerned, it is for the competent Authorities of the Government of Tamil Nadu to initiate appropriate action, if any party violates the Rule of law. Accordingly, the parties are at liberty to establish their respective rights before the Civil Court or competent Court of law. It is the domain of the State to maintain law and order problem and hence, the relief sought for in this petition is not sustainable one.

8. Heard the arguments advanced on either side and perused the materials available on record.

9. The facts in the present case is not disputed. Admittedly, there are suits pending inbetween the petitioner and the second respondent with respect to the title over the subject property. It is also admitted that the petitioner already filed W.P.No.4244 of 2016 challenging the proceedings initiated under Section 145 of Cr.P.C. before this Court and this Court vide order dated 08.11.2021 disposed of the said writ petition by observing that as far as the law and order issues are concerned, it is for the competent Authorities of the Government of Tamil Nadu to initiate appropriate action, if any party violates the Rule of law. Accordingly, the parties are at liberty to establish their respective rights before the Civil Court or



competent Court of law.

10. Pursuant to the said order, the impugned order has been passed. Hence, challenging the impugned order is not sustainable one since the first respondent has the power to maintain law and order problem in the particular locality. The first respondent has rightly passed the impugned order directing the petitioner and the second respondent to maintain status quo till the disposal of the suits filed by the petitioner as well as the second respondent.

11. In view of all the above, the impugned order does not warrant any interference. Liberty is granted to the petitioner as well as the second respondent to work out their remedy in the manner known to law, before the competent civil forum where they have already filed suits and thereafter proceed in accordance with law.

12. This writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

pri

To

1. The Revenue Divisional Officer,
Sriperumpudur.

2. The Inspector of Police,
Oragadam Police Station,
Kancheepuram District.

+2ccs to Mr. B. Narayanan, Advocate SR. No. 9159
+1cc to Mrs. Selvi George, Advocate SR. No. 9168

W.P.No.2360 of 2022

And

W.M.P.No.2518 of 2022

SSI (CO)
PR (15/02/2022)