



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.11272 of 2022 and W.M.P. Nos.10834 and 10836 of 2022

Rev.Fr.R.V.Thomas

... Petitioner

vs

1.The Joint Director,
Town and Country Planning,
Vellore District - 632 001.

2.The Block Development Officer,
Gugayanallore Village,
Katpadi Panchayat,
Vellore - 632 515.

3.The Panchayat President,
Gugayanallore Village,
Katpadi Panchayat,
Vellore-632 515.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records pertaining to the impugned order Na.Ka.No.448/2022 Ve Ma 3 dated 04.04.2022 pending on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.K.Karthik Jaganathan,
Government Advocate for R1
Mr.U.M.Ravichandran,
Special Government Pleader
for R2 and 3



ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court with this writ petition, challenging the impugned order in Na.Ka.No.448/2022 Ve Ma 3 dated 04.04.2022 passed by the Joint Director, Town and Country Planning, Vellore District, the first respondent herein.

2.Learned counsel appearing for the petitioner submitted that the petitioner, who is a Chief Executive Officer of the Light of the Blind India Trust, is a Catholic Priest and he is doing service for dying destitute and homeless people through 'HOSPICES', which is the term derived from the Latin word 'HOSPES' and the said Institution is involved in providing the life to dying destitute by giving dedicated and dignified treatment during their last days. Learned counsel for the petitioner further submitted that the petitioner has been running around 5 'HOSPICES' for the dying destitute in Tamil Nadu. While so, one the Mother Therasa's Rural Development Trust was formed in the year 1998 with an intention of imparting education to the under privileged community and the same was started by one Yesudoss and his family members. Learned counsel for the petitioner further submitted that now, the said Yesudoss has been creating several troubles to the Institution and its activities in order to extract more money with a malafide intention and ulterior motive and he has also filed an Original Suit in O.S. No.148 of 2018 with regard to the management of the Trust and its properties and the same is pending before the Principal District Judge, Vellore. While so, the petitioner received a letter on 15.03.2022 regarding the building plan and approval from the respondents and the petitioner has given necessary reply on 18.03.2022 stating that for the last five years, he has been running the 5th Hospice for the dying destitute in Vellore District and 50 dying destitutes are living in the same; due to Covid-19 pandemic situation and various reasons of non-movement of his staff, the petitioner made a request through online; in the meantime, the petitioner went through massive heart attack and due to the same, he had undergone treatment at Chennai MMM Hospital; he is not a violator of law; with regard to the building taxes, some exemption had been given for running a charity, since it is non-commercial one and requesting the respondents to give 60 days time to get the required documents. It is further averred by the petitioner that by order dated 27.03.2018 in H.C.P. No.570 of 2018 in the case of Rev.R.V.Thomas vs. The Director General of Police, this Court has made an observation that the petitioner is carrying on 'God's own work on Earth. Therefore, when the petitioner has been appreciated by this Court in the aforementioned order and a detailed representation has been



given by the petitioner on 18.03.2022 seeking time to provide exemption and to provide further time to produce all other relevant documents, over looking the fact that the petitioner is running social service for the dying destitute, who are abandoned and orphaned by their family, children or relatives in the public streets, pavements, railways stations, bus stand, Government hospitals under bridges etc. and his noble cause of the service by performing exclusive last rites, the respondents have issued the impugned lock and seal notice dated 04.04.2022 to the petitioner. Learned counsel for the petitioner further submitted that if for any reason, the petitioner closed down the institution, all the 50 dying destitutes would be left in lurch and nobody will be able to take care of them and the same would create public nuisance in and around the place of Vellore.

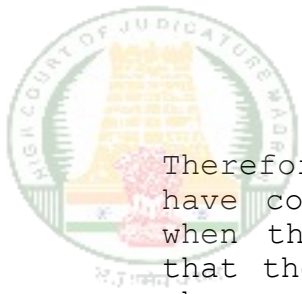
3.At this stage, learned Government Advocate appearing for the first respondent, drawing our notice to Rule 72(2) of the Tamil Nadu Combined Development and Building Rules, 2019, submitted that any exemption granted under the Rule, shall not be deemed to be approval or permission for construction or reconstruction of any building required by or under the Act and the appellant, after getting the exemption, shall obtain building permit by submitting required plans and paying fees, charges and deposits applicable for the development.

4.In this regard, it is relevant to extract Rule 72(2) of the Tamil Nadu Combined Development and Building Rules, 2019 as under:

72(2)-Any exemption granted under the Rule, shall not be deemed to be approval or permission for construction or reconstruction of any building required by or under the Act and the appellant, after getting the exemption, shall obtain building permit by submitting required plans and paying fees, charges and deposits applicable for the development.'

5.A perusal of the above provision clearly shows that after getting the exemption under the said Rule, the petitioner/appellant shall obtain building permit by submitting required plans and paying fees, charges and deposits applicable for the development.

6.In the present case, we are able to see that in the order dated 27.03.2018 passed by this Court in H.C.P. No.570 of 2018, this Court had observed that the petitioner is carrying on 'God's own work on Earth' because he is running institution only for the purpose of providing social service for the dying destitutes, who are abandoned and orphaned by their families, children or relatives in the public streets, pavements, railways stations, bus stand, Government hospitals under bridges etc.



Therefore, in our considered opinion that the respondents could have considered the reasonable request made by the petitioner, when the problem arose out of Covid-19 pandemic situation and that the petitioner has sought for only a limited prayer. Today when everyone is living and carrying on their work with selfish motive and own interest to amaze wealth, the petitioner is carrying on yeoman service for dying destitutes and homeless sickly people through Hospices which we consider to be a Gods own work on Earth, hence, instead of recognising their valuable service to the Nation by placing appreciation, issuing the impugned order does not merit any consideration. Suppose, if this Court dismisses this writ petition, as a result, all the dying destitutes are marooned on the streets, will the respondents make any alternative arrangements for their stay. This is an unthinkable question. Therefore, the first respondent is hereby directed to consider the case of the petitioner, in the light of Rule 72(2) of the Tamil Nadu Combined Development and Building Rules, 2019 expeditiously. Till then, status quo to be maintained by both the parties. Needless to mention that after granting exemption as per Rule 72(2), it is for the petitioner to work out his remedy. With the above direction and the observation, this writ petition stands disposed of. Consequently, W.M.P. Nos. 10834 and 10836 of 2022 stand closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vga
To

- 1.The Joint Director,
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Vellore District - 632 001.
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+1cc to the Government Pleader Sr.31005

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