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WP.No.27120, 27632 and 28668 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WP.No.27120, 27632 and 28668 of 2017
and WMP.No.29559 of 2017

WP.No.27120 of 2017

Selvasingh Samuel

...petitioner

Vs.

1. The District Collector,
Coimbatore District,
State Bank Rd, Gopalapuram,
Coimbatore 641018.
2. The Revenue Divisional Officer,
Coimbatore South,
Coimbatore 641018.
3. The Tahsildar,
Sandaipettai, Sular,
Coimbatore 641 402.

...respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the third respondent in issuing the impugned notice dated



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28.09.2017 in Na.Ka.07/17/A4 directing the petitioner herein to stop conducting prayers without permission from the District Administration of Coimbatore and to quash the same and consequently forbearing the respondents from in anyway interfering with the conduct of prayers by the petitioner in the Premises in question at Old No.7/265, New No.7/342, Main Road (Odakkal Palayam Road), Sultanpet, Palladam Taluk (then), Sulur Taluk (Now), Coimbatore District in Survey No.797/3A and 3B.

For Petitioner : Mr.G.Adithya Raj
for M/s.Richardson Wilson
For Respondents
for RR1 to 3 : Mrs.N.Senthil Selvi

WP.No.27632 of 2017

B.Sureshkumar ...petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The District Collector,
Coimbatore, Tamil Nadu.
3. The Tahsildar,
Sulur, Coimbatore District,
Tamil Nadu.
4. Deputy Superintendent of Police,
Sulur, Coimbatore.

5. P.Sampathkumar ... respondents

**[R5, impleaded vide order of this Court dated 28.09.2022
in WMP.No.3709 of 2022 in WP.No.27632 of 2017]**



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Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the connected records and the impugned order in Na.Ka.07/17/A4, dated 28.09.2017 of the third respondent and quash the same as illegal and void.

For Petitioner	: Mr.Ravi Kumar Paul, Senior Counsel for M/s.Paul and Paul
For Respondents for RR1 to 4 for R5	: Mrs.N.Senthil Selvi : Mr.G.Karthikeyan

WP.No.28668 of 2017

Muniandi alias Jayapaul

...petitioner

Vs.

1. The District Collector,
Coimbatore District,
State Bank Road, Gopalapuram,
Coimbatore 641018.
2. The Revenue Divisional Officer,
Pollachi - 642 001,
Coimbatore District.
3. The Tahsildar,
Office of the Tahsildar,
Pollachi, Coimbatore 642 001.
4. T.Balachandran

...respondents



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[R4 impleaded as per the order of this Court
dated 17.12.2021 in WMP.No.2855 of 2018
in WP.No.28668 of 2017.]

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Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the third respondent in issuing the impugned notice dated 20.10.2017 in Na.Ka.7632/2017/Aa3 insofar as directing the petitioner herein to stop conducting prayers without conducting peace talks with the Hindu Munnani and without permission from the District Administration Coimbatore and to quash the same insofar as the petitioner is concerned and consequently forbearing the respondents from in anyway interfering with the conduct of prayers by the petitioner in the premises in question at the residential property situated at Gomangalamputhur Village, Pollachi Taluk, Gomangalam Sub-Registration District, Registration District of Tirupur covered under the Sale Deed dated 02.12.2008 registered as Document No.3308/2008, Patta No.498, Survey No.393/B1B, measuring about 05.16 Cents.

For Petitioner	: Mr.G.Adithya Raj for M/s.Richardson Wilson
For Respondents	
for RR1 to 3	: Mrs.N.Senthil Selvi
for R4	: Mr.G.Karthikeyan



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COMMON ORDER

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These Writ Petitions are filed by the petitioners to quash the impugned orders passed by the respective Tahsildars and permit them to conduct prayer meetings in their premises.

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2. This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned notice dated 28.09.2017 in Na.Ka.07/17/A4 issued by the third respondent to stop conducting prayers in the petitioner's premises without permission from the District Administration of Coimbatore and consequently forbear the respondents from in anyway interfering with the conduct of prayers by the petitioner in his Premises

3. The case of the petitioner is that the petitioner's father late P.Vinobha purchased 3 adjacent lands admeasuring about 5708 sq.ft. under 3 different registered sale deeds and he was in peaceful possession and enjoyment of the said property. After the demise of the petitioner's father in 1997, the petitioner's mother and 5 sisters executed a Release



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Deed dated 28.01.2004 in favour of the petitioner and by virtue of the Release Deed, the petitioner became the absolute owner of the entire property. The petitioner formed a Trust in the name and style of "Zion Prayer Fellowship" and the deed of Trust was registered as Document No.64 of 2006.

4. The petitioner convened prayer meetings on every Sunday and other important occasions in his premises. Subsequently, the petitioner applied for permission from Vaarapatti Village Panchayat to construct a Prayer Hall in his premises. After getting permission from the Local body on 07.09.2016, the petitioner constructed a Prayer Hall with the voluntary contribution from the members of Congregation and conducting prayer meetings. While so, the third respondent, viz., the Tahsildar, Sandaipetai, Sulur, Coimbatore issued a notice dated 28.09.2017 stating that the prayer meetings are being conducted by the petitioner in his premises without prior permission from the District Administration and hence, the building will be locked if he continues to conduct prayer meetings without permission. Challenging the same, the owner of the building and the founder of the Religious Congregation known as "Zion Prayer



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Fellowship", filed the above Writ Petition.

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5. This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the notice issued by the Tahsildar/third respondent dated 20.10.2017 and to forbear the respondents from in anyway interfering with the conducting of prayers in the premises owned by the petitioner.

6. The petitioner herein purchased a residential property at Gomangalamputhur Village, Pollachi Taluk, Tirupur District in the year 2008 and after obtaining plan approval, he constructed a House and residing therein with his family. The petitioner states that he is a pastor and he is engaged in preaching gospel and also praying for the sick people in his premises.

7. It is his case that the petitioner is conducting fasting prayers on every Friday, Sunday and other important occasions in his premises. While so, the third respondent by the impugned order directed the



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petitioner to approach the District Collector for getting permission to conduct prayer meetings in his premises and till such time, he was directed not to conduct any religious activity inside the building.

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8. This Writ Petition is filed to quash the impugned order passed by the Tahsildar/third respondent dated 28.09.2017.

9. The petitioner herein purchased a plot in Survey No.434/2A to an extent of 2700 sq.ft. in Pallava Nagar in 2007 and constructed a house with a prayer hall and he is residing in the said premises with his family. He used to offer prayer in that prayer hall on every Sunday. While so, the Tahsildar passed the impugned order directing the petitioner to obtain permission from the District Collector for conducting religious meetings in the petitioner's residential house and also issued a warning that the building premises will be sealed in case the petitioner does not obtain permission from the District Collector as per Rules.

10. The learned counsel appearing for the private respondent in



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WP.Nos.27632 and 28668 of 2017 submitted that the petitioners are conducting prayer meetings in their houses without permission and causing nuisance to the neighbours. He further submitted that as per Clause 6 of Annexure VII of the Tamil Nadu Combined Development and Building Rules, 2019, if the petitioners want to conduct religious meetings in their premises, they should obtain prior permission from the District Administration.

11. The learned counsel appearing for the petitioners submitted that the petitioners in the all these Writ Petitions have constructed building after obtaining planning permission from the Local body and living with their family. It is the case of the petitioners that they are conducting prayer meetings in their own private building without causing any disturbance to their neighbours. Since the properties are their private properties and not belonged to any religious institution, it will not attract Clause 6 of Annexure VII of the Tamil Nadu Combined Development and Building Rules, 2019.

12. Clause 6 of Annexure VII of the Tamil Nadu Combined



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Development and Building Rules, 2019 reads as follows:

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"The competent authority shall not entertain any building application for construction of buildings in relation to any religious institution unless such application is accompanied with a No Objection Certificate obtained from the District Collector concerned.

Explanation -- *For the purpose of this rule, the religious institution shall mean any temple, mutt, mosque, church or any other place of worship, which is dedicated for the benefit of or used as or right, by the public as a place of religious worship."*

13. From a reading of Clause 6 of Annexure VII of the Tamil Nadu Combined Development and Building Rules, 2019, it is seen that no objection certificate from the District Collector is required only when the construction of building is in relation to a religious institution. The Religious Institution is explained as any temple, mutt, mosque, church or any other place of worship, which is dedicated for the benefit of or used as of right, by the public as a place of religious worship. Unless it is a place dedicated to the public there is no scope for getting no objection certificate or permission from the District Collector.



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14. Though the petitioner states that the prayer hall, which is constructed by the petitioner does not satisfy the term religious Institution, if the place of worship is dedicated for the benefit of or used as a right by the public as a place of religious worship, the petitioner should get no objection from the District Collector. In other words, if the public cannot enter the premises as a matter of right, the meeting hall constructed by the petitioner will not attract Clause 6 of Annexure XVII of the Tamil Nadu Combined Development and Building Rules, 2019.

15. Having regard to the specific averments in the petitions and the official respondents have not disputed that the petitioners have constructed the buildings on their own patta land for the purpose of conducting prayer meetings, there is no requirement to get NOC from the District Collector. However, if there is any dedication in favour of public is admitted or established, certainly the petitioner's building will attract the definition of Religious Institution to invoke Clause 6 of Annexure XVII of the Tamil Nadu Combined Development and Building Rules, 2019.

16. At this juncture, learned counsel appearing for the private respondents submitted that the prayer meeting if assumes larger proportion



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resulting in gathering of huge group, it changes the very nature of the building and in that case, the permission is required from the District Collector in terms of the Rules. However, this Court is of the view that the petitioners' right to have a prayer hall in his own patta land and offering prayer, cannot be interfered with by the respondents.

17. The learned counsel appearing for the petitioner in support of his contentions, relied upon the judgment of the learned Single Judge of this Court in the case of ***Paul Thankom vs. the State of Tamil Nadu in WP.(MD).No.10782 of 2006, dated 14.08.2012***, wherein, in a similar situation, the petitioner therein filed Writ of Mandamus forbearing the respondents therein from taking any action against the petitioner from conducting prayer meetings in her own house. The learned Single Judge disposed of the said Writ Petition and held as follows:

“7.Material on record shows that the residential place of the petitioner is being used for conducting prayers. It is also admitted by the petitioner that while practising Christianity, “Pentecost”, the petitioner and her family members and others in and around her house, assemble in her house, for conducting prayers. The objection of the respondents is that if such dwelling house has to be



transformed into a place of worship for the people of the locality to assemble, then there must be a prior permission.

8. In the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place. However, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take necessary action under the provisions of the relevant statutes. But before resorting to any action, the authorities on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a right of others, under Part III of the Constitution of India to enforce public order. Frivolous complaints to restrict freedom to practice and profess any form of religion should not entertained, as it would be affecting the constitutional right of a person. No body has a right to affect the religious practice of a person. Reasonable restrictions, can be imposed only in cases, falling under “public order or morality and health and rights guaranteed under Part III of the Constitution of India. So long as the petitioner or or the members of her family and others do not indulge in any activity forbidden under law, or their actions are contrary to public order, morality and health (2) other provisions of Par III of the Constitutions; (3) any law (a) regulating or restricting any economic, financial or political or other secular activity, there cannot be interference with a right to



practice and profess any religion. Conducting prayers collectively by the members belonging to a particular sect of a religion cannot be restricted as it would amounting to interfering with their constitutional right to practice and propagate religion of their choice. This Court is not inclined to grant any blanket direction in the nature of mandamus as prayed for, and holds that it is always open to the official respondents to take appropriate action against the petitioner and others, if there are strong and credible materials available against them, to arrive at a conclusion that they have indulged in any activity forbidden by law, as explained in the judgments stated supra.

9. Nobody shuns a doctor, or staff or even an employee, who clear up a patient, in a hospital, on the grounds of caste, creed or religion. Differences though exist, nobody would ever think of it. Blood transfused in a hospital is not segregated on the basis of caste, creed or religion. Nor the person who requires blood, would ever demand blood only from a person belonging to his case, community, creed or religion. If for his survival and existence a person can consciously believe and accept that all are equal, irrespective of case, creed, community or religion, they why this hatred and division. Organs are transplanted, Blood and body have no religion or case. When the blood and organs of a Hindu can save a Muslim or vice versa or even a Christian then why this intolerance. Is there not a



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similarity in 'Om', "Amen" and "Ameen?". All religions aim at the same destination. Forms and practices may differ. One should not forget that our glorious constitution enshrines, secularism, fraternity and equality. Unity in diversity is our strength."

18. In view of the judgment of this Court referred to above and the specific statutory provisions under Clause 6 of Annexure XVII of the Tamil Nadu Combined Development and Building Rules, 2019, this Court is inclined to allow these petitions. Accordingly, these petitions are allowed and the impugned notices are quashed. The respondents are directed not to stop the petitioners from conducting prayer meetings in their premises in question. However, it is made clear that the petitioners under the guise of this order is not permitted to cause any nuisance or inconvenience to the public or neighbours by conducting prayers without adhering to the other statutory restrictions or regulations under any law that are in force, which can be enforced by the statutory authorities. No costs. Consequently, connected miscellaneous petition is closed.

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To

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Revenue Department,
Fort St. George, Chennai 600 009.
2. The District Collector,
Coimbatore District,
State Bank Rd, Gopalapuram,
Coimbatore 641018.
3. The Revenue Divisional Officer,
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5. The Tahsildar,
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Tamil Nadu.
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8. The Tahsildar,
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