



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.6038 of 2012

Y.John Wilson

... Petitioner

Vs.

1.The District Collector,
Kanniyakumari District,
Nagercoil.

2.The Tahsildar,
Kalkulam Taluk,
Thakkalai,
Kanniyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in A6/1/2012 dated 21.04.2012 passed by the second respondent and quash the same and the respondents not interfere or disturbing to the petitioner's peaceful prayer worship in Re.S.No. A4/6 & 7 of Thakkalai Village, Padmanabapuram Municipality, Kalkulam Taluk, Kanyakumari District.

For Petitioner : M/s.M.Punitha Deva Kumar

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the second respondent herein, who had rejected a permission for construction of a church in Re.S.No.A4/6 in patta land.

2. Admittedly, in the impugned order, the second respondent has invoked Rule 6(4) of Tamil Nadu District Municipality (Buildings) Rules, 1972. As per the said rule, whenever a site is proposed to be used for a construction of a building intended for public worship or religious purposes, a prior approval has to be obtained from the District Collector. However, the present impugned order has been passed by the second respondent, who is the



Tahsildar. Hence, it is clear that the second respondent has no jurisdiction to invoke Rule 6(4) of Tamil Nadu District Municipality (Buildings) Rules, 1972. For lack of jurisdiction, the impugned order is set aside. However, if the writ petitioner presents any application before the first respondent herein, the same may be considered after obtaining report from the other revenue authorities and after hearing the writ petitioner.

3. With the above said observations, this Writ Petition stands allowed. However, without obtaining any prior permission from the District Collector, the petitioner will not be entitled to proceed with the construction of the church or conduct any religious worship in the disputed survey number. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Kanniyakumari District,
Nagercoil.

2.The Tahsildar,
Kalkulam Taluk,
Thakkalai,
Kanniyakumari District.

+1 CC to M/s.M. PUNITHA DEVA KUMAR, Advocate (SR-27357[F] dated 22/06/2022)

+1 CC to M/s.SPL.GP (SR-27742[F] dated 23/06/2022)

Order made in
W.P. (MD) .No.6038 of 2012
22.06.2022

PKP/05.07.2022/2P/5C