



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.8941 of 2022

K.Vedhanayakam

... Petitioner

Vs

The District Collector,
Kanyakumari District,
Nagercoil.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Pa.Mu.C3/5957/2020 dated 28.10.2021 passed by the respondent and quash the same as illegal and consequently direct the respondent to grant permission for constructing prayer hall in Survey No.381/14, Vadakanpakam, Kumarapuram Post, Kanyakumari District, into a prayer hall and fixed a time frame by this Court.

For Petitioner : Mr.M.Ashok Padmaraj

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2.The petitioner is a permanent resident of Kanyakumari District. He is also the President of Pentecostal Deva Sabai at Mathar Senkodi Post, Kanyakumari District. The petitioner owns the property comprised in Survey No.381 /14 at Vadakanpakam, Kumarapuram Post, Kanyakumari District. He had put up a construction. He wants to use the said premises as a prayer hall. He applied to the respondent seeking permission. Since his request was not acted upon, he filed W.P(MD)No.16296 of 2020. By order dated 19.11.2020, this Court directed the respondents to pass order on the said representation. Pursuant to the aforesaid direction, the petitioner's request was considered and rejected by the impugned order dated 28.10.2021. Challenging the rejection order, the present writ petition has been filed.

3.The learned counsel appearing for the writ petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and direct the respondents to permit the petitioner to use the superstructure as a prayer hall.



4.Per contra the learned Special Government Pleader submitted that the impugned order does not call for any interference. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions. Even though the prayer is for directing the respondents to permit the petitioner to construct the prayer hall in Survey No.381/14, the fact is that the construction has already been completed. In fact, actually the request made by the petitioner is for change of user. Rule 4(3) of the Tamil Nadu Panchayat Building Rules 1997 states as follows :

"No site shall be used for the construction of a building intended for public worship or religious purposes without the prior approval of the Collector of the district who may refuse such approval, if in his opinion, the use purpose of the site and building is likely to endanger public peace and order."

The said rule contains the expression "Prior Approval". In other words, the petitioner must have obtained permission before putting up the construction. There cannot be any post approval. That is the ratio laid down by the Hon'ble Division Bench of this Court in **WP. (MD)Nos. 6493, 6494 and 6495 of 2019 (T.Sekar & another v. Government of Tamil Nadu)**. That apart, the District Collector is empowered to refuse such request if in his opinion the proposed use of the site and building is likely to endanger public peace and order. In the case on hand, the respondent had made an elaborate reference to the antecedent events. It appears that in the village in question, there are about 50 Hindu families and 30 Christian families. Within 200 meters from the site in question, there is an Essaki Amman Temple. There is a church functioning in the said village also. The petitioner wants to use the petition mentioned premises for catering to the needs of four Pentecostal families. Already a complaint was lodged by one Jeyachandran in this regard. On more than one occasion, peace talks were held. The petitioner had also given an undertaking that he would not use premises in question for religious worship without getting prior permission. The respondent had come to a definite conclusion that if the request as sought for by the petitioner is granted, it would vitiate public peace and order. In such matters, the Court should defer to the executive wisdom. The impugned order is well reasoned. No case is made out for interference. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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To

The District Collector,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.SPL.GP (SR-24605[F] dated 08/06/2022)

W.P. (MD) No. 8941 of 2022
06.06.2022

sj (CO)
TR(21.06.2022) 3P 3C