



W.P (MD) No.16435 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 21.12.2022

Coram

THE HONOURABLE **Mrs. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.(MD) No.16435 of 2022 &  
W.M.P.(MD) Nos.11867 of 2022 and 16274 and 16275 of 2022

Stephen

.. Petitioner

Vs.

1. The District Collector,  
Kanyakumari District,  
Nagercoil.
2. The Superintendent of Police,  
Kanyakumari District  
Nagercoil
3. The Revenue Divisional Officer,  
Padmanabhapuram, Thakkalai,  
Kanyakumari District
4. Ebi Solomn
5. Kamalan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the official respondents from granting any permission for starting a church at Door No.24/45-1 in Survey No.391/14, Kaliakavilai Village, Vilavancode Taluk, Kanyakumari District by the 4<sup>th</sup> and 5<sup>th</sup> respondents based on the petitioner's representation dated 06.07.2022 within a period stipulated by the Court.



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For Petitioner : Mr.Ananth C.Rajesh

For Respondents : Mr.A.Kannan for R1 & R3  
Additional Government Pleader  
Mr.B.Thanga Aravindh  
Government Advocate for R2  
M/s.M.Punitha Devakumar for R4  
Mr.C.Ezhilarasu for R5

### ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus forbearing the official respondents from granting any permission for starting a church at Door No.24/45-1 in Survey No. 391/14, Kaliakavilai Village, Vilavancode Taluk, Kanyakumari District by the 4<sup>th</sup> and 5<sup>th</sup> respondents based on the petitioner's representation dated 06.07.2022 within a period stipulated by the Court.

2. The brief facts of the case, as averred by the petitioner, is as follows:-

The petitioner is the Secretary of the Church of Indian Bethal at Karimbumavilai, Thiruthuvapuram Post, Kaliakavilai Village, Kanyakumari District and the 4<sup>th</sup> respondent was an assistant to the pastor, namely, Mr. Arthur David and due to his mis-behavior with the female members of the church, a police complaint was lodged and the



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same is also pending against him. In view of the said act, he was expelled from the church. In order to create problem within the church administration, he purchased a small piece of land next to the church, on 22.06.2020 and by getting building permission for dwelling house, a building was also constructed in that place. Converting the said house, he started prayer meetings in the said house and slowly it was converted as church. Hence the petitioner gave a detailed representation to the respondents on 16.07.2020 and subsequently filed a writ petition in W.P.(MD) No: 8699 of 2022 to consider the representation of the petitioner and the same was disposed by this Court based on the undertaking given by the 4th respondent. Suppressing the above facts the 4th respondent filed Crl.O.P (MD) No. 7703 of 2022 seeking 'not to harass', the same was dismissed and subsequently the 5<sup>th</sup> respondent filed a Writ Petition (MD). No.8710 of 2022 seeking 'not to disturb his house, prayer activities along with his family members, relatives and friends conducting his house prayer activities in Door No.24/45-1, Thiruthuvapuram, Kanyakumari District' and this Court vide order dated 29.04.2022 disposed of the same by granting permission for assembling and conducting prayer in the dwelling house, however, permitted the official respondents to take



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action, if there is any nuisance being caused to general public.

Therefore, the Writ Petitioner submitted a representation to the respondents on 06.07.2022 and since the respondents have not taken any action, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that narrating all the above said facts, the petitioner has submitted a detailed representation to all the official respondents on 06.07.2022 and the official respondents having received the same, failed to take action against the respondents 4 and 5, hence this Writ Petition.

4. It is the contention of the 2<sup>nd</sup> respondent that originally the dispute prevails between the petitioner and 4<sup>th</sup> respondent for conducting prayer. The petitioner has lodged complaint before the 2<sup>nd</sup> respondent 06.07.2022, after the receipt of the complaint, C.S.R. No. 527 of 2022 was registered and enquiry was conducted by summoning both the parties. Since the dispute between the parties are in continuous process for several years and in order maintain public peace, the dispute between them was referred to the 3<sup>rd</sup> respondent vide C.No. 38/LIR/T9PS/1011 dated 10.07.2022. The petitioner and the



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4<sup>th</sup> respondent are having every liberty to contest the proceedings before the 3rd respondent, thereby sought to dismiss the petition.

5. It is the contention of respondents 4 and 5 that they purchased 5 cents of land in the village and constructed a dwelling house and performing social activities for their locality people by using one portion of the house as the office hall under the Trust, namely, New Indian Bethel Charitable Trust. The Writ Petitioner as well as the said Authur David, due to previous enmity and on account of jealousy, created false allegations and complaints against the 4<sup>th</sup> respondent stating that he is conducting church prayer activities in dwelling house. Moreover, the Petitioner filed W.P. (MD) No. 8966 of 2020 against the 4<sup>th</sup> respondent stating that the official respondents are not granting any permission for starting the prayer house at Survey No. 391/14 and the 4<sup>th</sup> respondent has given an undertaking that the building to be put up by him in the petition mentioned site will be used only as a residential house and not as a place for public worship. Recording the said undertaking the said Writ Petition was allowed. Also, the petitioner had given a false complaint before the Kollemcode Police Station against the 4th respondent stating that he used abusive words against one lady namely,



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A. Benila Joy and as described in that complaint, the said Benila Joy, was not a defacto complainant. The 5th respondent Mr. Kamalan is the father of this 4th respondent and only conducting house prayer activities in that building and not conducting any Church prayer activities in the said premises and further submits that 4th Respondent obtained relevant records and obtained proper permission from the concerned Authorities for doing services to the general public and the 4<sup>th</sup> respondent is conducting many Social Training Courses under the District Collector in Kanyakumari District and District Collector recognized the 4th respondent as the master volunteer for many Government Awareness Programs and Rehabilitation and Drug Awareness Programmes. Moreover the 4<sup>th</sup> Respondent conducts Central Government Social Service Programme of National Disaster Risk Reduction Agency.

6. That apart, it is also the contention of the learned counsel for the 4<sup>th</sup> and 5<sup>th</sup> respondents that the 4<sup>th</sup> respondent also obtained permission from the District Collector for using the hall at New Indian Bethel Charitable Trust Office situated at Door No. 24/45-1 through the



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Government Order dated 02.03.2022 in Na.Ka.No. 558/A1/2022

Further, in order to wreck vengeance and due to previous enmity, the petitioner has filed the present writ petition, thereby sought to dismiss the same.

7. Heard the learned counsels on either side and perused the documents placed on record.

8. On a perusal of the earlier order passed by this Court, in W.P. (MD) No.8966 of 2020 it is seen that the 4<sup>th</sup> respondent has not obtained any prior approval from the District Collector and therefore, the 4<sup>th</sup> respondent cannot put up any building for using it as a place of Religious worship, as the same would be contrary to the statutory Rule. Since the 4<sup>th</sup> respondent has given an undertaking in order to adhere to the statutory Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 before this Court stating that the building to be put up by him in the petition mentioned site will be used only as a residential house and not as a place for public worship or Religious purpose, the earlier Writ Petition filed by the petitioner in W.P.(MD) No.8966 of 2020 was disposed of by recording the said undertaking.



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9. It is relevant to note that earlier, Crl.O.P (MD) No. 7703 of 2022 filed by 4<sup>th</sup> respondent praying to direct the 2<sup>nd</sup> respondent not to harass the petitioner as well as the persons, who are interested in serving to the society for conducting social services in his Trust branch office at Door.No.24/45-1, Thiruthuvapuram, Karumbumavilai, uzthithurai Post, Kanyakumari District, viz., public services like family health counseling, Suicide prevention counseling and anti-drug awareness counseling both live and on screen without causing any disturbance to other religious people and also giving Spiritual counseling and psychological advise to the psychologically affected person, the said petition was dismissed holding that once the regular FIR has been registered, the question of “Not to harass” will not arise.

10. It is important to note that on previous occasion, W.P (MD).No.8710 of 2022, was filed by 5<sup>th</sup> respondent for issuance of a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to consider his representation dated 11.04.2022 and not to disturb his house prayer activities along with his family members, relatives and friends in Door No.24/45-1, Thiruthuvapuram, Kurumathoor, Kuzhithurai Post– 629 163,



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Kaliakkavilai Village, Vilavancode Taluk, Kanyakumari District. This Court, on 29.04.2022, considering the nature of the prayer sought for in the said petition and taking note of the fact that there is no need to get any prior permission from any Authority for assembling and conducting prayer in the dwelling house of the 5<sup>th</sup> respondent, disposed of the said petition. However, a direction was issued to the official respondents to take appropriate action in accordance with law against the 5<sup>th</sup> respondent, if there is any nuisance being caused due to noise pollution for any other bona fide reasons to the general public.

11. It is worthwhile to extract Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972, which reads as follows:

*“(4) No site 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: Provided that an appeal shall lie against the Collector's decision to the Government who may issue such orders as they deem fit.”*

12. Besides the above, aftermath of communal clashes that took



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place in Mandaikadu of Kanniyakumari District in the year 1982, the Government has formed One Man Committee headed by former learned Judge of our High Court namely Justice Thiru.P.Venugopal. The said One Man committee has recommended that no church or temple should be allowed to come up within close proximity. The religious institutions should not be allowed to use the loud speakers all the time. The Committee has further recommended that prior permission should be obtained to establish any Church or Temple. Further, the Kanyakumari District being a communally sensitive District, various restrictions are imposed in permitting the religious activities. The said condition is incorporated by way of G.O.Ms.No.916 Public (Law and Order) Department dated 29.04.1986.

13. Considering the above said facts and circumstances of the case and taking note of the fact that on earlier occasions, while dealing with the similar issues, this Court, had allowed the number of writ petitions to conduct prayer in the house without causing any hindrance or disturbance to the general public and further, the 4<sup>th</sup> respondent has also filed an undertaking stating that the petition mentioned site is used for residential purpose as per Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 and not as a place for public worship



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or religious purpose or church and that he will abide by the orders passed by this Court , further by way of Na.Ka.No.558/A.1/2022 dated 03.03.2022, the District Social Welfare Officer, Kanyakumari has granted permission to the 4<sup>th</sup> respondent under the name and style 'Indian Bethal Charitable Trust' to conduct self employment trainings, free tailoring class for the widows, who lost their husband, consultation for alcoholic addiction persons, physcological support for the persons who are suffering from family dispute and sexual abuse, assisting to the street dwellers and for helping elderly persons for the well being of the general public and that the respondents 4 & 5 are performing such activities, this Court is of the view that it is only a in-house prayer conducted by the respondents 4 and 5 and the Writ Petitioner has not come forward to produce any evidence to prove that church prayer activities are conducted by the respondents 4 and 5 . The petitioner is also running a church from where the respondents 4 and 5 had parted with and thereafter, started a new trust, holding in-house prayer with his family and friends alone.

In view of the above, the present Writ Petition is dismissed. However, the respondents 1 to 3, at any point of time, in future,



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whenever a complaint is received on bonafide reasons stating that respondents 4 and 5 are causing disturbance to general public, shall proceed by holding an enquiry after adhering to the principles of natural justice. Consequently, connected miscellaneous petitions are closed.

No costs.

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Speaking order / Non speaking order

Index :Yes / No

Internet :Yes / No

ssd

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**V.BHAVANI SUBBAROYAN,J.,**

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