



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Special Original Jurisdiction



Thursday, the Twentieth day of October Two Thousand and Twenty Two

PRESENT

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The Hon`ble Mr.Justice SATHI KUMAR SUKUMARA KURUP

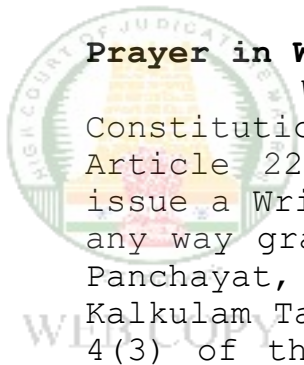
WP(MD). Nos.18124 and 22455 of 2022

WP(MD). No. 18124 of 2022

Arulselvan.C ... Petitioner in WP(MD). 18124 of 2022

- Vs. -

1. The District Collector
Kanyakumari District, Nagercoil- 629 001.
2. The Sub Collector,
Padmanabhapuram, Kanyakumari District.
3. The Assistant Director (Panchayats),
Nagercoil- 629 001.
4. The Superintendent of Police,
Kanyakumari District, Nagercoil.
5. The Inspector of Police,
Mondaikadu Police Station,
Mondaikadu, Kanyakumari District.
6. The Executive Officer,
Mondaikadu Town Panchayat,
Mondaikadu, Kanyakumari District.
7. The President,
Mondaikadu Town Panchayat,
Mondaikadu, Kanyakumari District.
8. Full Gospel Pentecostal Church,
Mathavilai, Rep. by its Chief Bishop,
Vinil Satheesh,
No. 13/69, Kadamalaikuntru, Mekkamandapam,
Kanyakumari District.
9. New Pentecostal Church,
Rep. by its Founder, Kadamalaikuntru,
Mekkamandapam, Kanyakumari District.



Prayer in WP(MD). 18124 of 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, restraining the respondents 1 to 6 from in any way granting permission to the Door No. 10-31B, Mondaikadu Town Panchayat, comprised in R.S.No.301/22, Manavalakurichi village, Kalkulam Taluk, Kanyakumari District, in total contravention of Rule 4(3) of the Tamil Nadu Panchayat Building Rules 1997, hereinafter referred to under the said Rules, in terms of the powers conferred under Section 242 (2) of the Tamil Nadu Panchayat Act No. 21 of 1994, by allowing the above writ petition.

WP(MD). No. 22455 of 2022

Full Gospel Pentecostal Church,
Mathavilai Rep by its Pastor J.Titus,
Mathavilai, Alaganparai Post,
Kanyakumari District.

... Petitioner in WP(MD). 22455 of 2022

Vs

1 The District Collector,
Kanniyakumari District.

(R1 is Suo Motu impleaded Vide Court Order Dated 27.09.2022 in WP (MD).22455/2022)

2 The Superintendent of Police,
Nagercoil, Kanyakumari District.

(R1 Rank Rearranged as R2)

3 The Inspector of Police,
Manavalakurichi Police Station,
Manavaalakurichi, Kanyakumari District.

(R2 Rank Rearranged as R3)

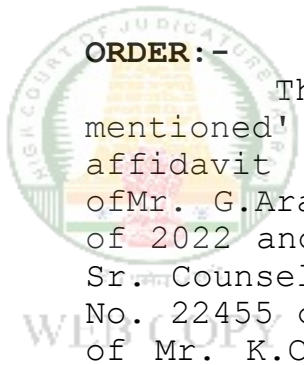
4 C.Arulselvan,

(R4 is Impleaded Vide Court Order Dated 27.09.2022 in WMP(MD) 16801/2022)

... Respondents in WP(MD). 22455 of 2022

Prayer in WP(MD). No. 22455 of 2022:-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd Respondent police vide his proceedings Nil dated 08.08.2022 and quash the same as illegal and consequently to direct the 1st Respondent to grant necessary permission for conducting the 30th yearly convention meeting scheduled to be held from 29.09.2022 to 02.10.2022 in the petitioner Church by considering the petitioners representation dated 02.08.2022.



ORDER:-



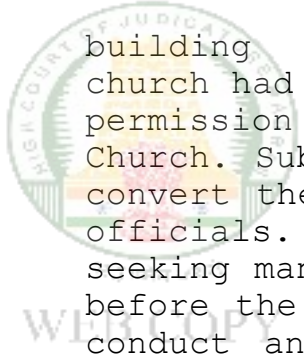
This Writ Petition coming upon under the caption 'for being mentioned' on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. G.Aravinthan, Advocate for the Petitioner in WP(MD).No. 18124 of 2022 and 4th Respondent in WP(MD).No. 22455 of 2022, Mr.Ajmalkhan Sr. Counsel, for M/s.Ajmal Associates for the Petitioner in WP(MD).No. 22455 of 2022 and 8th Respondent in WP(MD).No. 18124 of 2022 and of Mr. K.Christy Theboral, Additional Government Pleader for 1 to 3rd, 6th and 7th Respondents in WP(MD).No. 18124 of 2022 and for 1st respondent in WP(MD).No. 22455 of 2022, Mr.R.Sivakumar, Government Advocate(Criminal Side) for the 4th & 5th respondents in WP(MD).No. 18124 of 2022 and 2nd & 3rd respondents WP(MD).No. 22455 of 2022 this Court made the following order:

When W.P(MD) No. 18124 of 2022 was taken up for hearing on 27.09.2022, at that time the learned Counsel intervened and mentioned that W.P(MD) No.22455 of 2022 is pending before this Court before the other Bench of this Court. This Court had addressed the Hon'ble Administrative Bench of this Court to pass appropriate orders so that the same Bench can hear both cases. Accordingly W.P (MD) No.18124 of 2022 pending before other Bench was withdrawn and posted before this Court to be heard along with the W.P(MD) No.22455 of 2022. Both Writ Petitions were taken up for hearing on 27.09.2022 and considered order was passed.

2. It is the contention of the learned Senior Counsel the Petitioner that W.P(MD) No.22455 of 2022 was filed by Titus, Pastor of Full Gospel Pentecostal Church, Mathavilai, Kanyakumari District. The Constitutional right guaranteed to breach religion, follow religion and profess religion is restricted by the act of the Respondents. After hearing the learned Senior Counsel for the Petitioner in W.P(MD) No.22455 of 2022 and the learned Counsel for the Petitioner in W.P(MD) No.18124 of 2022 and after hearing the learned Additional Government Pleader and the learned Additional Public Prosecutor this Court has passed considered orders directing the District Collector and the Superintendent of Police, Kanyakumari District to pass orders considering the importance of public peace and also considering the prayer to practise religion as guaranteed under Article 25 of the Constitution of India which was reiterated in the decision reported in **2006 (1) CTC 22**.

3. Yesterday (19.10.2022) the learned Senior Counsel appearing for the Petitioner mentioned that this case may be posted under the caption 'for being mentioned' today. Therefore the learned Government Advocate(Crl.Side) was also directed to obtain instructions from the District Collector and the Superintendent of Police, Kanyakumari District regarding the directions issued to the District Collector and the Superintendent of Police, Kanyakumari District.

4. Today (20.10.2022), the case came up for hearing under the caption 'for being mentioned' as first item. The learned Counsel for the Petitioner would submit that Mandaikadu Bhagavathi Amman Temple is situated 4 kms away from the place where the Petitioner's

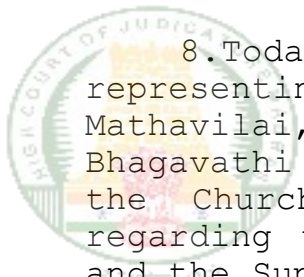


building is situated. It is to be noted that the Petitioner's church had purchased the residential house and without obtaining any permission from the authorities concerned had been using it as Church. Subsequently they have filed petition seeking permission to convert the building into Church which was refused by the revenue officials. Based on which they have Writ Petition before this Court seeking mandamus, the same was dismissed and Writ Appeal is pending before the Principal Bench. In that premises the Church wanted to conduct annual convention which was refused by the authorities based on which this Writ Petition came to be filed.

5. The learned Government Advocate (Crl. Side) resisted stating that there are already religious clashes in the same locality within the very same limit of the very same police station. Therefore the State Government had ordered judicial enquiry headed by the Hon'ble retired Judge of this very same Court. As per one man enquiry commission in order to maintain public peace and tranquility it was recommended to the State Government that in a place where there was already a place of worship another place of worship shall not be permitted within 300 m. In the light of the report, the District Collector and the Superintendent of Police of Police, Kanyakumari District are alleged to have refused to grant permission to conduct annual convention in the property purchased by the Church herein which was also a residential building. Without obtaining permission to convene it as Church without using it as Church. The subject matter in the W.P(MD) No.22455 of 2022 is to direct the District Collector and the Superintendent of Police, Kanyakumari District to permit the Petitioner's church to conduct annual convention meeting in the premises of the residential building which they have purchased as residential building but using it as Church.

6. In the light of the submission made by the learned Additional Public Prosecutor the Writ Petition in WP(MD) No.22455 of 2022 is disposed of with a direction to the District Collector, Kanniyakumari District and the Superintendent of Police, Kanniyakumari District to consider the representation of the Petitioner to conduct annual convention in the place without restrictions imposed and which had been in force, in the light of the passed religious clashes in Mandaikadu Bhagavathi Amman Temple. In the light of the reporting ruling of the **2006 (1) CTC 22 [Pastor I. Vinil Sathish -vs- State of Tamil Nadu]**, wherein, it is specifically stated that the right to practice religion is a guaranteed right as per the Constitution of India to the citizens of this country. Every individual has his/her freedom to practice and propagate his religion.

7. In the light of the above direction, the learned Senior Counsel appearing for the Petitioner mentioned that it is not 300 m, it is 400m between the Mandaikadu Bhagavathi Amman Temple and the place they propose to convene annual convention of the Church and its believers.



8. Today, when the case came up for hearing, the learned Counsel representing Titus, Pastor of Full Gospel Pentecostal Church, Mathavilai, Kanyakumari District submitted that Mandaikadu Bhagavathi Amman temple is 4kms away from the premises purchased by the Church. Therefore this Court had pass appropriate order regarding the representation pending before the District Collector and the Superintendent of Police, Kanyakumari District.

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9. The learned Counsel for the intervenor in W.P(MD) No.22455 of 2022 who is the Petitioner in W.P(MD) No.18124 of 2022 also present in Court. He submits that Mandaikadu Bhagavathi Amman temple is 4km away from the premises purchased by the Petitioner's Church. He also submit that on the eastern side of the premises purchased by the Petitioner within 100 km away there is Sastha Temple and in the South east direction there is Ayya Vaikundar Temple, which is 180m away and in the West Uma Maheswari Temple and Bhathirakaliamman Temple, which is 280m away and 150 years old. Hence the learned Counsel for the intervenor (Petitioner in W.P(MD) No.18124 of 2022) states that it is a sensitive area considering the religious importance.

10. The learned Government Advocate(Crl.Side) on instructions from the District Collector and the Superintendent of Police, Kanyakumari District that Mandaikadu Bhagavathi Temple is roughly between 3 to 4 kms away from the premises of the Church purchased by the Petitioner in W.P(MD) No.22455 of 2022. He would also submit that within 300 m there is Uma Maheswari Temple and Bhathirakaliamman Temple, which is 150 years old.

11. The learned Senior Counsel had mentioned that Mandaikadu Bhagavathi Amman temple is 4kms away. Therefore District Collector, Kanyakumari District may be directed to pass appropriate orders.

12. Considering the sensitiveness involved it is for the District Collector and the Superintendent of Police to consider the representation of the petitioner under the guaranteed rights to the citizens of this country to practice, to profess and to propagate religion as per the reported ruling in **2006 (1) CTC 22 [Pastor I. Vinil Sathish -vs- State of Tamil Nadu]**.

13. In view of the above, no further order is required to be passed in this petition.

Sd/-

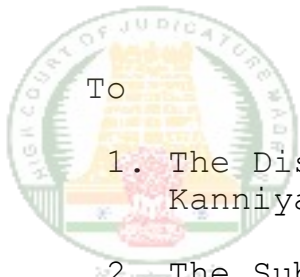
Assistant Registrar (CS I)

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/11/2022

Sub Assistant Registrar(CS)

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To



1. The District Collector,
Kanniyakumari District.
2. The Sub Collector,
Padmanabhapuram, Kanyakumari District.
3. The Superintendent of Police,
Nagercoil, Kanyakumari District.
4. The Inspector of Police,
Manavalakurichi Police Station,
Manavaalakurichi, Kanyakumari District.
5. The Inspector of Police,
Mondaikadu Police Station,
Mondaikadu, Kanyakumari District.

+ 1 cc to M/s. Ajmal Associates, SR. No. 50937, dated 26/10/2022

ORDER DATED : 20/10/2022
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ORDER

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WP (MD). Nos.18124 and 22455 of 2022

Giving direction and etc.
as stated within.

MGJ/BUC (01.11.2022) 6P 7C