



W.P.No.3126 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 08.03.2023	Date of Pronouncing Order 24.04.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

WP.No.3126 of 2017

Sathuvachari Educational Trust
Rep. by its Managing Trustee
A.Syed Ahmed Niyas
Sathuvachari
Vellore 632 009.

... Petitioner

Vs.

1.The District Collector,
Vellore.

2.The Revenue Divisional Officer,
Vellore.

3.The Commissioner,
Vellore Corporation,
Vellore.

4.The Executive officer,
Grade III Municipality,
Sathuvachari,
Vellore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order dated 30.12.2016 in Mui.Mu.C3/11868/2015 of the 1st Respondent



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herein and quash the same and direct the 1st Respondent to forthwith grant No Objection Certificate for putting up construction of a Prayer Hall for the Muslims in the Petitioner's property situate at Door No.1260Q Phase III, Tamil Nadu Housing Board Part II comprised in Survey No.622/1 Part, Sathuvachari Village, Vellore.

For Petitioner : Mr.AL.Gandhimathi
For Respondents : Mr.V.Ramesh
Government Advocate

O R D E R

This Petition has been filed to quash the order of the 1st Respondent, wherein he has refused to issue planning permission for the construction of prayer hall in the petition premises.

2.The short facts of the Petitioner's case is as under:

2(a).The Petitioner has applied for grant of permission and grant of No Objection Certificate for putting up the constructions of the prayer hall for Muslims in the petition property situated at Door No.1260Q, Phase III, Tamil Nadu Housing Board, Part II comprised in Survey No.522/1 Part, Sathuvachari Village, Vellore.

2(b).The subject property covering an extent of 3450 sq. ft. was originally



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registered in the name of one Thiru.Jeyaraj, S/o.Late V.G.Govindha Achari, Sathuvachari, Vellore Taluk. Subsequently, it was purchased by one Zaheer Hussain, S/o.C.Naina Mohammed for a sale consideration.

2(c)3The Petitioner trust “Sathuvachari Educational Trust” was formed in the year 2006 (Doc.No.1623 of 2006). The Trust has been registered with the Tamil Nadu Wakf Board vide registration No.320. The subject property was later gifted by the purchaser Zaheer Hussain by way of “Hiba”(settlement deed) under Muslim Law to the Petitioner trust vide Document No.6039 of 2006.

2(d).The Petitioner Trust, with an intention to put up a Prayer hall for Muslims, applied for Plan approval from the 4th Respondent herein. Since the Petitioner has sought for permission for the construction of a religious structure, the 4th Respondent has therefore, directed the trust to obtain No Objection Certificate from the 1st Respondent under Rule 6(4) of Tamil Nadu Municipality Buildings Rules. Accordingly, the Petitioner trust has requested the first respondent for the issue for NOC on 01.06.2015.

2(e).Based on the request of the trust, the reports of the following officers were called for 1.Revenue Divisional Officer, Vellore, 2.Superintendent of Police, Vellore & 3.Commissioner, Vellore Corporation. The request made by



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the Petitioner has been forwarded to the 1st Respondent District Collector, competent authority under the Tamil Nadu Municipalities Building Rules, by the IV Respondent, viz., Executive Officer, Grade III Municipality, Sathuvachari Vellore. As the Petitioner has not received any reply, it appears that WP.No.22258 of 2016 has been filed for issuance of NOC and this Court appears to have issued a direction to consider the application of the Petitioner and pass suitable orders, within a period of six weeks and thereafter, the impugned order was passed and hence the Writ Petition.

3.The 1st Respondent/District Collector filed counter affidavit.

4(a).Learned senior counsel appearing for the Petitioner drew my attention to various facts as narrated above and also regarding the “Hiba” given to the Petitioner trust on 26.07.2016.

4(b).The nature and character of the property is residential plot (VHU 3/83) given by the Tamil Nadu Housing Board. Admittedly, it is not mixed residential plot and the housing board has allotted this plot to the donor of the trust for residential purpose. Now the Petitioner wanted to construct a prayer hall and it has been rejected by the 1st Respondent/District Collector.



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4(c).The reason assigned by the Commissioner of Vellore Corporation now is that the subject place in which the permission for construction of prayer hall is a “Residential Plot (VHU 3/83) and hence it cannot be used for other purpose and moreover, the said plot was allocated by Tamil Nadu Housing Board for the residential purpose and that a prayer hall shall be constructed only at “Mixed Residential Plots” and therefore, the Commissioner has refused to recommend for the NOC”. The above stated position is not disputed and cannot be disputed, since the site is allotted by the Tamil Nadu Housing Board for residential purpose only and not for mixed residential purpose.

5.As to the alleged violation of the procedures contemplated under Tamil Nadu Municipalities Building Rules, it remains to be stated that as per rule 6(4) of Tamil Nadu Municipalities Building Rules 1972, No objection Certificate should be obtained from the District Collector before constructing a building for Public Worship. Rule 6(4) of Tamil Nadu Municipalities Building Rules 1972 runs as follows:

"No site be used for the construction of a building intended for public worship or religious purpose, 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".



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6. From the submissions of the learned Government Advocate it is seen that reports have been called for from the (1) RDO, Vellore, (2) Superintendent of Police, Vellore and (3) Commissioner of Vellore Corporation. The Commissioner of Vellore Corporation has given a report as stated supra that the site, wherein the proposed prayer hall is to be constructed is residential plot and is not a mixed residential plot.

7. The sum and substance of the RDO report is as under

“the Revenue Divisional Officer, Vellore in his report has stated that the representatives of the Hindu Munnani and the residents of TNHB Phase II have filed a suit objecting the construction of Prayer Hall in the subject place in O.S.No. 646 of 2008 and that a peace committee was conducted on 06.11.2013 at his office, in which both parties were present and in that meeting the following decisions were taken

- 1. Conical Loud speaker should not be used in the subject place.*
- 2. As the public of all sects are living in that area, activities which would disturb the peaceful life of the residents is prohibited.*
- 3. Prior approval should be obtained from the Local Planning Authority before carrying out any sort of construction in that place.*
- 4. Any sort of Gathering and Demonstration in the*



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subject place is prohibited.

The Revenue Divisional Officer, Vellore further added that the trust refused adhere to the afore said decisions taken in the peace meeting and the trust had to constructed a compound wall and drawn Mosque symbols and placed a board by name "MASJID E TAQWA" in the subject place. He further added that as the activities of the Petitioner Trust are detrimental to the maintenance of public tranquility in the area, a notice under section 133 of Cr.P.C was issued to the Petitioner trust and the same is pending and that therefore the Revenue Divisional Officer Vellore has not recommended for the issue of No objection Certificate."

8.The sum and substance of the report of the Superintendent of Police, Vellore is that with regard to the subject matter, law and order issues have arose and that several cases were registered (C.S.R.No. 361/2013, Cr.Nos.1371/2013 u/s 151 Cr.P.C and 1391/2013 u/s 107 Cr.P.C) and as the construction of prayer hall would disturb the routine of the residents around the area, the Superintendent of Police, Vellore also refused to recommend for the grant of No Objection Certificate.

9.Based upon the above reports the Commissioner of Corporation,



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Vellore; RDO, Vellore & Superintendent of Police, Vellore, the District

Collector in consonance with Rules 6(4) & 6(5) of the Tamil Nadu Municipalities Building Rules, has rightly come to the conclusion that the purpose of the site and building is likely to maintain the public peace and order appears to be just and proper and does not appear to be arbitrary as projected by the Petitioner. The report of the RDO, Superintendent duly substantiated that already a similar law and order problem, endangering the public peace has arose and the Petitioner refused to obey the Peace Committee resolution also cannot be brushed aside.

10(a).In view of the report of the Superintendent of Police and RDO and Corporation Commissioner and also the previous conduct of the Petitioner in putting up the compound wall and shed without permission and also not adhering to the resolution passed by the Peace Committee on 06.11.2013 as reflected in RDO's report, I find that the order passed by the District Collector stands justified.

10(b).Hence, I find that the very purpose of obtaining the “No Objection Certificate” is to ascertain whether the building intended for religious purpose would create any law and order problem. Since the usage of the subject property as prayer hall by Petitioner trust in that area would likely endanger public peace



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and order and therefore, based on the recommendations of the officials concerned, the request of the Petitioner trust for the issue of No Objection Certificate for the construction of Prayer Hall was denied.

11.Hence, the impugned order of rejection cannot be termed as arbitrary and it is based on the material and the Decree of endangerment to the peace and tranquillity and public peace and order in the locality and hence, I am not inclined to interfere with the order passed by the 1st Respondent/District Collector.

12.In fine, this Writ Petition is dismissed. No costs.

24.04.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai

To
1.The District Collector,
Vellore.

2.The Revenue Divisional Officer,
Vellore.



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RMT.TEEKAA RAMAN.J,

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3.The Commissioner,
Vellore Corporation,
Vellore.

4.The Executive officer,
Grade III Municipality,
Sathuvachari, Vellore.

Pre-delivery Order made in

WP.No.3126 of 2017

Dated: 24.04.2023