



W.P.(MD) No.2541 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.2541 of 2020
and
W.M.P.(MD) Nos.2195 and 2196 of 2020**

K.Kanagaraj

... Petitioner

/vs./

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3.The Executive Officer,
Kulasekaram Town Panchayat,
Kulasekaram and Post,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records and quash the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.25/2016/A1



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dated 24-01-2020, on the ground that the same is arbitrary, illegal and without jurisdiction.

For Petitioner : Mr.G.Ramanathan

For R1 & R2 : Mr.T.Amjadkhan
Government Advocate

For R3 : Mr.M.Rajarajan

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorari calling for the records of the order passed by the third respondent in Na.Ka.No. 25/2016/A1 dated 24-01-2020 and quashing the same.

2.It appears that one Sasikumar had filed a Public Interest Litigation in W.P.(MD) No.25195 of 2019 for a Mandamus forbearing the respondents 1 to 3 from granting permission to the petitioner for illegal and unauthorized construction of a Church without obtaining proper permission and directing the respondents to maintain peace, social discipline and law and order.



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3.The said writ petition was disposed of on 27.11.2019 and it appears that on 24.01.2020 by virtue of the impugned order, the third respondent has issued a notice stating that no permission to date has been obtained for the construction in question by the petitioner herein and therefore, as directed by the Division Bench of this Court in W.P.(MD) No.25195 of 2019, proceedings would be initiated against the illegal construction. It is challenging this notice that the petitioner is before this Court calling the notice and order.

4.Heard the learned counsels appearing on either side.

5.As rightly pointed out by the learned Government Advocate for the respondents 1 and 2, the impugned proceeding is not an order but only a notice, which notice has been issued pursuant to the orders of the Division Bench of this Court in W.P.(MD) No.25195 of 2019. The relevant portion of the said order is extracted herein below:-

“4.We are informed by the learned Additional Government Pleader that the 4th respondent has not challenged the Notice, dated 20.11.2018, but the fact remains that he is carrying on his activities,



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which according to the 3rd respondent, is illegal. To demonstrate that the 4th respondent has violated the direction issued by the 3rd respondent in proceedings dated 20.11.2018, the petitioner has produced a pamphlet showing that a religious function was to be held on 26.11.2019. Immediately representation has been sent by the petitioner on 21.11.2019. The learned Additional Government Pleader submitted that action had been taken against the 4th respondent and the said function was not conducted on 26.11.2019. It is not sufficient for the 3rd respondent to prevent the solitary function, but the 3rd respondent should take permanent action in the matter and ensure that no religious activities are permitted in the said building, which has been constructed as a house.

5. It is not clear whether the 4th respondent has obtained planning permission to construct the house. If that has not been obtained, then the house which has been constructed itself is liable to be demolished. These factors should be taken note of by the 3rd respondent and effective orders should be passed so that no such activity, which are not authorized by law, is carried on by the 4th respondent in the said premises.”

6. Therefore, the proceedings have been initiated only pursuant to the orders of the Division Bench of this Court and therefore, the relief sought for



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cannot be granted and accordingly, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

06.04.2023

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To

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Superintendent of Police,
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P.T.ASHA, J.

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