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W.P.(MD)NO.13485 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13485 of 2022 AND
W.M.P.(MD)Nos.9578 & 9580 of 2022

Sivakumar

... Petitioner

Vs.

1. The District Collector,
Pudukkottai District,
Pudukkottai.
2. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.
3. The Executive Officer,
Arimalam Town Panchayat,
Arimalam and Post,
Thirumayam Taluk,
Pudukkottai District.
4. The President of Diocese of Thanjavur Society,
Bishop's House, Door No.65/A,
Post Box No.204, Trichy Road,
Thanjore Society, Thanjavur.
5. The Correspondent,
Rev. Fr.X.A.Nathanial,
S/o.A.Xavier,
St. Joseph's Nursery and Primary School,
Arimalam,
Arimalam – Revenue Village,
Thirumayam Taluk, Pudukkottai District.



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6. Parish Priest,
St. Soosyeppar Church cum
The Correspondent,
St. Joseph's Nursery and Primary School,
Agraharam and Vellalar Street,
Arimalam Post,
Thirumayam Taluk,
Pudukkottai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order of the 1st respondent in his proceedings in Na.Ka.No.11369 / 2020 / Aa1 dated 02.12.2021 and quash the same.

For Petitioner : Mr.K.Baalasundharam
For R-1 & R-2 : Mr.M.Sarangan,
Additional Government Pleader.
For R-3 : Mr.M.Kannan
For R-4 to R-6 : Mr.Ragathesh Kumar,
for M/s.Isaac Chambers.

* * *

ORDER

Heard the learned counsel on either side.



2. The petitioner challenges the order dated 02.12.2021 whereby the District Collector, Pudukkottai, had issued no objection certificate in favour of respondents 4 to 6 to put up a Church in the petition mentioned survey number.

3. The learned counsel appearing for the petitioner reiterated all 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.

4. The contesting respondents have filed counter affidavit and I was taken through its contents.

5. The learned counsel appearing for the private respondents submitted that the writ petition deserves to be dismissed.

6. I carefully considered the rival contentions and went through the materials on record.

7. Annexure-XVII (6) of The Tamil Nadu Combined Development and Building Rules 2019 is as follows:-



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“ Construction of religious buildings:

The competent authority shall not entertain any building application for construction of buildings in relation to any religious institution unless such application is accompanied with a No Objection Certificate obtained from the District Collector concerned.

Explanation – For the purpose of this rule, the religious institution shall mean any temple, mutt, mosque, church or any other place of worship, which is dedicated for the benefit of or used as of right, by the public as a place of religious worship.”

8. The land in question falls within the limits of Arimalam Town Panchayat. Rule 6(4) of The Tamil Nadu District Municipalities Building Rules 1972 is as follows:-

“ 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



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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.”

The aforesaid rule states that the Collector may refuse approval if the use of the site and building is likely to endanger public peace and order.

9. In this case, there was a very stiff opposition to the proposed construction. The stand of the private respondents is that in the site in question, there was already a church in existence and since it had become dilapidated, there is a proposal to put up a new construction. It is well settled that planning approval will have to be obtained not only for construction but also for reconstruction. The private respondents had gone ahead by laying foundation even without getting such approval. In the counter affidavit, the reason given is that they submitted an application and also sent a communication dated 10.06.2021 to the District Collector for No Objection Certificate and foundation was put up so as to impress upon the members of the church to come forward to contribute for the construction of new building of the church. In my view,



this was a clear act of illegality. The petitioner thereupon filed W.P. (MD)NO.16766 of 2021 for directing the local body to initiate action under the provisions of The Tamil Nadu District Municipalities Act, 1920 for removal of the unauthorised construction. The writ petition was filed in September 2021 and notice was ordered. Without realising that the said writ petition would become infructuous, the District Collector had issued the impugned order on 02.12.2021. The impugned order itself reads that it is subject to the outcome of W.P.(MD)No.16766 of 2021. I fail to understand as to how such kind of order could have been passed.

10. Be that as it may, in the counter affidavit filed by Parish Priest, the following undertaking has been given:-

“1. The property in which the new building of the Church is proposed to be constructed is not in any Government poramboke land. It is going to be constructed in T.Survey Number 1413 bearing patta No.1231, having an extent of 0./20.5 ares owned by the Diocese / Church.

2. The Church will not take steps to rename the road 'Pudhur Agraharam'.



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3. The Corpses of Christians will not be brought to the Church building at any time. Instead it will be taken to another Church namely, Addaikala Matha in Sirayampatti Village and the same will be buried in Sirayampatti Cemetery.

4. At no point of time, the Church building will exceed the height of Siva Temple at Arimalam.

5. At no point of time any attempt will be made towards conversion of religion.”

11. The learned counsel appearing for the sixth respondent states that there are around 100 families in the Parish and that the church is intended to cater to their spiritual needs.

12. Even though I have expressed my displeasure over the conduct of the private respondents, by incorporating the undertaking of the private respondents and by stipulating additional conditions, the apprehension of the petitioner can be redressed.

13. The first respondent is directed to issue revised proceedings by incorporating the undertaking given by the respondents in the counter affidavit filed before this Court. It shall also be stipulated that the activities of the church shall not cause any noise pollution. There is



absolutely no need for installing loud-speakers. The activities can very well be peacefully conducted within the church campus itself. Recently, I happened to hear a Sunday Sermon in a rural area. During the course of his talk, the speaker said, “We do not worship Satans like Hindus. We do not recite “Thuva” like Muslims”. These words fell into my ears because sound system had been installed. That is why, the first respondent will have to stipulate appropriate conditions bearing in mind law and order issues. These shall be a further condition that the church authorities shall ensure that the vehicles of the devotees shall not be parked in such a way as to cause hindrance to the other residents of the locality. Sermons given in the church ought not to offend the religious sentiments of other religionists. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The District Collector,
Pudukkottai District,
Pudukkottai.
2. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.



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G.R.SWAMINATHAN,J.

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