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W.P.No.23246 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

W.P.No.23246 of 2024

1.S.Sathish Kumar

2.S.V.Badri

3.Martin P

4.S.Vijay

... Petitioners

Vs.

1.M/s.Church of South India,
Madras Diocese,
Rep. by its Secretary, Rev.Dr.Manuel Titus,
226, Cathedral Road,
Chennai – 600 086.

2.The Inspector of Police,
G1, Vepery Police Station,
Jeremiah Road,
Veparty, Chennai – 600 007.

3.Revenue Divisional Officer, Chennai North,
Tondiarpet, Chennai – 600 081.

4.Tahsildar,
Purasawakkam Taluk,
Raja Muthaiah Salai,
Purasawakkam, Chennai – 600 003.

5.Victory Christian Foundation Trust,



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Rep. by its Trustee Mr. Abraham,
No.47, Vadamalai Street,
Purasawalkam, Chennai – 600 007.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, forbearing the 1st respondent their men, agents and / or any other person(s) claiming under the 1st respondent from interfering with the petitioners' right in any manner directly or indirectly whatsoever as members of the at AFT Church situated No.47, Vadamalai Street, Purasawakkam, Chennai – 600 007 (“Subject Property”), to access and attend the Church Prayer services and conduct other religious activities and consequently, by directing the 3rd and 4th respondents to take necessary action in accordance with law in order to protect the rights of the petitioners to peacefully conduct the prayer services and religious activities.

For Petitioners : Mr.Sricharan Rangarajan,
Senior Counsel
for Mr.N.Chinnu

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)
for R2 to R4

ORDER

The petitioners herein claim that they have a right to participate in the church prayer service conducted in the AFT church situated at No.47, Vadamalai Street, Purasawakkam, Chennai – 600 007. However, the



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members of the 1st respondent, Church of South India are preventing the petitioners from conducting the church prayer service.

2. According to the learned counsel for the petitioners, St.Mathias Cemetery was closed several years ago and a portion of it is under the occupation of the AFT church. The original appearance of the Cemetery was demolished long back except the church which occupies the portion of the land. The petitioners herein were regularly conducting the Sunday prayer service and other special services for the past 40 years and they were conducting various religious activities including bible college, preaching etc.,

3. While so, on 21.07.2024 when the petitioners went to offer their Sunday prayer, the members of the CSI attempted to prevent the petitioners and their members from the church and as a result, there was encounter between the two groups. The 1st respondent Church claiming ownership over the place has also erected a board claiming the Cemetery, where the church belongs to CSI. It is also contended that the physical features of the church premises been attempted to be altered using JCB and in this connection police complaint been lodged and FIR pending.



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4. Contending that the petitioners are prevented from carrying on their religious activities at AFT church, Purasaiwakkam, which violates Article 25 of the Constitution besides Article 21, this writ petition is filed seeking mandamus forbearing the 1st respondent their men, agents, and/or any other person(s) claiming under the 1st respondent from interfering with the petitioners' right in any manner directly or indirectly whatsoever as members of the AFT Church situated at No.47, Vadamalai Street, Purasaiwakkam, Chennai – 600 007 to access and attend the Church prayer services and conduct other religious activities and consequently, by directing the 3rd and 4th respondents to take necessary action in accordance with law. Article 25 of the Constitution of India reads as follows:-

25. Freedom of conscience and free profession, practice, and propagation of religion.-- (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law--



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(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.-- The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.-- In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

5. Undoubtedly, the Constitution of this Country protects the right of the person to practice and profess the religion of his choice. However, there is restriction regarding manner of professing and practising their religion and if a person claims right to offer prayer in a particular church but the administration of the church has some internal regulation or restriction of entry, this dispute should be sort out only through civil Court and not under Article 226 of the Constitution of India. From a reading of the affidavit it is clear that the members of the 1st respondent



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CSI claims right of administration and control over the AFT church which was originally a cemetery converted recently as a church.

6. As admitted by the petitioners the petitioners who were not the members of the CSI claim to offer prayer in the church administered and managed by CSI. This dispute is necessarily a civil right of worship in a particular place and the right to carry on worship in that place is of civil right which has to be established before appropriate Court of law.

7. Therefore, this writ petition is disposed of giving liberty to the petitioners herein to seek redressal before appropriate civil Court.

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Index : Yes/No

Neutral Citation : Yes/No

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To

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1. The Inspector of Police,
G1, Vepery Police Station,
Jeremiah Road,
Veparty, Chennai – 600 007.
2. The Revenue Divisional Officer,
Chennai North,
Tondiarpet, Chennai – 600 081.
3. The Tahsildar,
Purasawakkam Taluk,
Raja Muthaiah Salai,
Purasawakkam, Chennai – 600 003.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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