



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.17664 & 17665 of 2017

and

W.M.P.Nos.19157 & 19158 of 2017

Francis Rajasekar

.. Petitioner in W.P.No.17664 of 2024

P.Muthuraj

.. Petitioner in W.P.No.17665 of 2024

Vs.

1.The District Collector
Udhgamandalam,
The Nilgiris District.

2.The Assistant Director
(Panchayat and Audit)
Udhgamandalam.

3.Block Development Officer (VP)
Kotagiri,
The Nilgiris District.

4.The Inspector of Police,
Sholurmattam Police Station,
12/H, Sholurmattam,
Kotagiri.

.. Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the



records in R.C.No.106/2017 dated 06.02.2017 passed by the 3rd respondent and to quash the same as illegal, without jurisdiction and void and also consequently direct the 4th respondent not to disturb/harass the petitioner and his family.

For Petitioner .. Mr.Hudson Samuel, in both WPs.

For Respondents .. Mr.T.Chandrasekaran,
Special Government Pleader,
in both WPs.

COMMON ORDER

These two writ petitions have been filed by two separate writ petitioners both questioning notices issued under Section 33 of the Tamil Nadu Building Rules, 1997 by the Block Development Officer at Kotagiri to the two writ petitioners. By the said notices issued to the two writ petitioners, the Block Development Officer, Kotagiri who had been impleaded as the 3rd respondent had stated that he had inspected the buildings where the two writ petitioners are residing, and had found that the places are used for religious purposes and that there is a congregation of like minded people. In effect, it had been stated that though permission had been obtained for construction of the buildings for residential purposes, the buildings are used as a place of worship and that permission had not been



obtained from the appropriate authorities, for such usage of the said buildings. It had been further stated that, if the buildings are continued to be used as places of worship, then the authority namely, Block Development Officer, would exercise his right under Sections 56(1)(b) and (d) and 47a(4)(d) of the Town and Country Planning Act. This has forced the two writ petitioners to file these two writ petitions seeking interference with such notices issued by the Block Development Officer.

2.To state the facts in little more detail, the petitioner in W.P.No.17664 of 2017, Francis Rajasekar, had constructed the building at 3/311, Sholurmattam, Denad, Kil Kotagiri, Nilgiris District. The writ petitioner in W.P.No.17665 of 2017, P.Muthuraj, had similarly constructed a building for residential purpose at 3/468, Sholurmattam, Kil Kotagiri, Nilgiris District. They had both put the buildings for usage as places of worship by inviting people to congregate and profess the religious faith, which they adhere to. This had been objected to by the Block Development Officer and he had issued notices under Section 33 of Tamil Nadu Building Rules, 1997.

3.The very fact that the notices issued under Section 33 of the Tamil Nadu Building Rules, 1997 is actually misnomer as the Rules have only



Rules and not sections.

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4. Rule 33 of the Tamil Nadu Building Rules, 1997 is as follows:

“33. Stoppage of work endangering human life:

Notwithstanding anything contained in act of the preceding provisions, the executive authority may at any time stop the construction or reconstruction of any building if in his opinion the work in progress and endangers human life.”

5. The said Rule can be invoked only when it is found that the building endangers human life. The building should be in the process of being constructed or reconstructed. The provision does not apply to the writ petitioners. The writ petitioners had already obtained permission for construction of the buildings and had actually completed the construction.

6. The learned counsel for the petitioners also drew notice of this Court that the aforementioned Rule 33 of the Tamil Nadu Building Rules, 1997, had been subsequently interfered with and deleted. The Tamil Nadu Combined Development and Building Rules, 2019 has now been promulgated. Rule 9 provides for inspection of the buildings, but again they are for inspection during the process of construction. It had been provided in Annexure – 17 to the said Rules in Clause 6 that when there is a



construction of a religious building or rather a building to be need for religious purposes or which could be termed as a religious institution, a No Objection Certificate will have to be obtained from the District Collector. Admittedly, in this case, the permission of the District Collector had not been obtained for putting the buildings for use of religious purposes.

7.However, it is claimed by the learned counsel for the petitioners that there is no prohibition under any of the legislation of an individual owner using his particular building for religious purposes. The respondents however are worried on the ground that, owing to increase footfall, endanger would be caused to the members who congregate for such religious purpose.

8.This is an issue which can never be addressed by this Court. A fact finding inspection has to be done by the respondents to find the stability of the buildings and the nature of usage to which the buildings are put to, particularly, during the religious congregation. The number of people who congregate for such purposes will also have to be examined. These are facts, which will have to be first determined. If it is found that the building would not withstand the number of people who congregate and endangerment could be caused to them, then, the respondents are at liberty to issue



appropriate notices. Further, if the petitioners seek to utilize the said buildings for religious purpose, then, it would only be appropriate that they also apply to the District Collector seeking a No Objection Certificate to permit their building for which permission had been granted for residential purpose to also be used as places for worship.

9. But however, the issuance of the impugned notice under Section 33 of the Tamil Nadu Building Rules, 1997, cannot withstand the scrutiny of this Court.

10. The learned counsel for the petitioners pointed out that consistently, the Courts have held that notices of similar nature would not withstand the scrutiny of this Court and have proceeded to quash the said notices. I do agree with the ratio laid down therein, but, would only give small liberty to the respondents to conduct inspection of the buildings of the two writ petitioners and determine whether the buildings are stable enough to withstand the footfall during those occasions. The petitioners may also take a considered decision whether they would prefer to permanently convert the buildings as full time religious place of worship and apply to the District Collector for permission to put the buildings for such usage. The aforementioned steps would give a quietus to the entire issue, as otherwise,



if complaints are received from the neighbours, the respondent would be under an obligation to take steps. It would be in the interest of the petitioners that they avoid complaints being received from the neighbours.

11. With the above observations, the impugned notices are quashed, but however, giving liberty to the respondents to proceed further in manner known to law and in accordance with the directions issued above. Accordingly, these Writ Petitions stand allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

04.11.2024

Index: Yes/No
Internet: Yes/No
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C.V.KARTHIKEYAN,J.

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