



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19165 of 2020 AND
W.M.P.(MD)Nos.16025 & 16027 of 2020

S.Rajasingh

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District, Virudhunagar.

2. The Sub Collector,
Sivakasi, Virudhunagar District.

3. The Superintendent of Police,
Virudhunagar District, Virudhunagar.

4. The Tahsildar,
Sivakasi Taluk, Virudhunagar District.

5. The Block Development Officer,
Sivakasi Panchayat Union, Sivakasi,
Virudhunagar District.

6. The Inspector of Police,
Maraneri police station,
Maraneri, Virudhunagar District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the 1st respondent vide his proceedings in Na.Ka.No.C1/17942/2018 dated 28.7.2020 and the consequential order passed by the 2nd respondent vide his proceedings in O.Mu.A2/1977/2018 dated 26.9.2020 and quash the same and further



direct the 1st respondent to grant approval to the petitioner's church situated in Survey no. 561/4A1 at Maraneri Village, Sivakasi Taluk, Virudhunagar District within a stipulated period as fixed by this Court.

For Petitioner : Mr.Anantha Murugan
For R-1 & R-2,
R-4 & R-5 : Mr.K.S.Selvaganesan,
Additional Government Pleader.
For R-3 & R-6 : Mr.A.Albert James,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioner challenges the communication dated 28.07.2020 issued by the District Collector, Virudhunagar to the Assistant Director of Panchayats, Virudhunagar District stating that there is no scope for granting permission to the petitioner to put up a church in the petition-mentioned survey number. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that the President of the local body as well as the jurisdictional Tahsildar as well as the Block Development Officer have stated that permission as sought for by the petitioner can very well be granted. The learned counsel for the petitioner would contend that the



District Collector, Virudhunagar has not taken such materials into account while issuing the impugned communication. He called upon this Court to set aside the impugned communication and grant relief as prayed for.

4. Though the materials relied on by the petitioner do support his case, I am not in a position to grant relief only for two reasons. In the affidavit filed in support of the writ petition, the petitioner stated that the petitioner's father purchased the land and put up construction after obtaining approval from the local body. Copy of the approval proceedings have not been enclosed in the typed set of papers. What has been enclosed is only the No Objection Certificate issued on 09.06.2007. The statutory rules are very clear. The petitioner must first obtain permission from the District Collector to construct the building. Then he must go to the planning authority for approval. In this case, even without obtaining prior approval from the District Collector, the structure had been put up. The Hon'ble Division Bench of this Court vide order dated **19.09.2019** in **WP.(MD) Nos.6493, 6494 and 6495 of 2019 (T.Sekar V. Government of Tamil Nadu)** had held that the expression “prior” must be given its fullest effect. In other words, the party concerned must put up construction only after getting approval from the District Collector.



The question of first putting up the building and then getting approval from the District Collector will not arise at all. That is like, putting the cart before the horse.

5. Secondly, the learned Government Advocate appearing for the sixth respondent pointed out that there is strong opposition from other religionists. Proceedings under Section 107 CrPC. were initiated in the year 2018. Of course on 07.12.2020, due to efflux of time the proceedings were dropped. He would state that there is a Sivan temple at a distance of 100 meters. Taking into account these aspects, the District Collector had negated the petitioner's request.

6. In matters such as this, when the executive based on relevant materials would state that there is scope for law and order issues, the Court must not defer to the executive. The order impugned in the writ petition does not call for any interference. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



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G.R.SWAMINATHAN,J.

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