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W.P.(MD) No.11715 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.11715 of 2016
and
W.M.P.(MD) No.8991 of 2016**

B.Balakrishnan Prabu

... Petitioner

-vs-

- 1.The District Collector
Collectorate Building
Tirunelveli District
- 2.Block Development Officer
Keelapavur Panchayat Union
Thippanampatti Post
Tenkasi Taluk, Tirunelveli District
- 3.The Bishop
Dioceses of Church CSI of Thirunelveli
Palayamkottai
Tirunelveli-627 002

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the first respondent to consider the petitioner's representation dated 10.05.2016 for restraining the unauthorized construction of Church from third respondent, which situated at Sennenalthapudukulam Main Road, 8th Ward, Thippanampatti Panchayat, Keelapavur Panchayat Union, Tirunelveli District.

For Petitioner : Mr.S.Moorthy

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 & R2
Mr.G.Prabhu Rajadurai for R3

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the first respondent to restrain the third respondent from constructing a Church unauthorizedly in Sennenalthapudukulam Main Road, 8th Ward, Thippanampatti Panchayat, Keelapavur Panchayat Union, Tirunelveli District, by considering the petitioner's representation dated 10.05.2016.



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2. Learned Special Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that sofar, no one has applied for planning permit for the construction of Church in the subject property. Further, though the Church was constructed seven years back, till date no receipt has been issued from the Panchayat to the third respondent. To that effect, learned Special Government Pleader has produced a copy of the communication sent by the Panchayat President, Thippanampatti Panchayat to the Block Development Officer, Keelapavur Panchayat Union / second respondent, before this Court.

3. Learned Special Government Pleader would further submit that a notice has been sent to the third respondent as early as on 31.01.2024 informing him to submit his explanation within three days for construction of Church in the subject property without obtaining prior permission or planning permit, failing which, appropriate action would be taken in accordance with the provisions of the Tamil Nadu Panchayats Act. To that effect, he has also produced a copy of the notice dated 31.01.2024 issued by the Panchayat President, Thippanampatti, before this Court.



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4. At this juncture, learned counsel for the third respondent fairly submitted that the third respondent will submit an application to the District Collector / first respondent seeking permission for the construction of Church in the subject property within a period of one week from the date of receipt of a copy of this order and if no permission is granted by the first respondent within a period of two weeks thereafter, the third respondent will not claim any legal right over the Church constructed in the subject property.

5. Considering the facts and circumstances of the case and in view of the above submission of the learned counsel for the third respondent, we are inclined to issue the following directions:

- (i) The petitioner shall make an application before the first respondent / District Collector, within a period of one week from the date of receipt of a copy of this order, seeking permission for construction of Church in the subject property.
- (ii) The first respondent / District Collector shall consider the application of the petitioner, pass orders on merits and in accordance with law and communicate the



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same to the petitioner, within a period of two weeks thereafter.

- (iii) If the application of the petitioner is rejected by the first respondent / District Collector, necessary action shall be taken for removal of Church constructed in the subject property, in accordance with law, without any further delay.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

20.02.2024

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

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