



W.P.(MD) No.17767 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P.(MD)No.17767 of 2017

and

W.M.P(MD)Nos.14310 and 14311 of 2017

D.Murugaiah(died)

M.Karpagam

... Petitioner

(Petitioner is substituted vide Court order dated
18.01.2024 by DKKJ & KKRKJ in
W.M.P(MD)No.14321 of 2020)

Vs.

- 1.The District Collector,
Kanyakumari District at Nagercoil.
- 2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
- 3.The Bishop of C.S.I.,
Kanyakumari District,
Nagercoil.



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4.CSI Church,
Achankulam Kottaram Post,
Agastheeswaram Taluk,
Kanyakumari District,
Through its Secretary.

5.G.Belin,
Convener,
Achankulam Church,
Kottaram Post,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to enforce his own orders in Letters in Roc.C3/26037/15, dated 06.01.2016 and in Roc.C3/26037/15 dated 02.03.2016 by removing the illegal construction in S.No.174/9 in Achankulam Kottaram, Kanyakumari District within a time frame fixed by this Court.

For Petitioner	:	Ms.V.Janaki Devi
For R1& R2	:	Mr.N.Satheesh Kumar, Additional Government Pleader
For R-3 & R-4	:	No Appearance
For R-5	:	Mr.S.Rajasekar for M/s.Lajapathi Roy Associates



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ORDER

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

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus, directing the first respondent to enforce his own orders in Letters in Roc.C3/26037/15, dated 06.01.2016 and in Roc.C3/26037/15 dated 02.03.2016 by removing the illegal construction in S.No.174/9 in Achankulam Kottaram, Kanyakumari District within a stipulated period.

2. The allegation of the petitioner is that without obtaining proper permission, construction of a Church has been made in S.No.174/9 in Achankulam Kottaram, Kanyakumari District and prayer meetings are being conducted in the said Church. In the earlier round of litigations, there was a specific direction to seal the building and remove it. However, no steps have been taken so far. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.



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3. The first respondent has filed a counter affidavit stating that the existing old Church in R.S.No.174/3 of Kottaram West Village, which was in a dangerous condition, has been ordered to be demolished immediately and permission has been granted to construct a new CSI Church in the same land in R.S.No.174/3 and to stop illegal construction of Church without prior approval of the District Collector in R.S.No.174/9. Further, permission has been granted to use the partially constructed Church in R.S.No.174/9 for conducting prayers temporarily, till the completion of construction of new Church in R.S.No.174/3 and directed to complete the construction within 18 months. Besides, it has been directed to seal the partially constructed Church on completion of 18 months. Further, it was pointed out that no prayer or any kind of religious activities will be allowed in the land in R.S.No.174/9 after completion of 18 months. Thereafter, further representation has been received from one G.Belin, a convenor of the Church building committee stating that due to lack of money, they are unable to complete the work in time and therefore, permission was sought for to construct temporary side walls in the partially constructed unauthorised building. Based on the said representation, permission was granted. Subsequently, based on



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the representation received to stop the permanent construction in R.S.No.174/9, verification has been made by the Revenue Divisional Officer, Nagercoil and it was found that permanent construction is going on. As such, show-cause notice has been issued to the Church Authorities for the violation made. Since no proper reply has been received, the Revenue Divisional Officer, Nagercoil and the Executive Officer, Kottaram, have been directed to take necessary action under Section 188 of I.P.C. Subsequently, a case in Crime No.306 of 2016 has been registered by the Kanniyakumari Police.

4. In the counter affidavit, it has been further stated that the construction made in R.S.No.174/9 is illegal and in violation of the relevant Rules and the same is liable to be closed or sealed. The apprehension of the first respondent District Collector is that if any step is taken to close/seal/demolish the Church, it will lead to law and order problem. However, directed to take action under the Tamil Nadu District Municipalities Act, 1920.



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5. We have heard the learned counsel appearing on either side and perused the materials placed before us.

6. Though the counter affidavit has been filed in the year 2018, there is no action taken by the authorities to remove the illegal construction made in the land in question. In the light of the counter affidavit filed by the first respondent, we are of the view that the competent authorities are the Revenue Divisional Officer and the Panchayat concerned, for taking action for removal of the illegal construction made in R.S.No.174/9 of Kottaram West Village.

7. Since the authorities concerned are not parties to this writ petition, we are not passing any order in this writ petition. It is for the petitioner to approach the authorities concerned to take appropriate action. It is for the authorities concerned to take note of the statement made by the District Collector, Kanniyakumari District and to take further action for removal of illegal construction if any by following the procedure contemplated under the relevant Rules.



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8. It is needless to say that if any action is taken by the authorities concerned, it is for the fifth respondent to place relevant documents before the authorities concerned.

9. With the above observations, this writ petition is disposed of.
No Costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.] [K.K.R.K., J.]

18.01.2024

Neutral Citation: Yes / No
Index : Yes / No
PM

To:

- 1.The District Collector,
Kanyakumari District at Nagercoil.
- 2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.



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and
K.K.RAMAKRISHNAN, J.

PM

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