



W.P.(MD).Nos.31011 of 2023 & 20951 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)Nos.31011 of 2023 & 20951 of 2024
& W.M.P.(MD)Nos.26587/2023 & 17748, 17750 & 17751/2024

In W.P.(MD)No.31011 of 2023:

Swami Nadar.

... Petitioner

VS

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Revenue Divisional Officer,
Padmanabapuram,
Kanyakumari.

3.The Executive Officer,
Mandaikadu Town Panchayat,
Mandaikadu, Kanyakumari.

4.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari.

5.Vinil Sathish.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to forbear the respondents 1 to 4 from permitting the fifth respondent from conducting prayer meeting in Survey No. 301/22 (D.No.10/31B), Mathavilai, Mandakadu Town Panchayat, Kalkulam Taluk, Kanyakumari district except due process of law.

For Petitioner	: Mr.V.Sasi Kumar
For Respondents	
for R1 to R3	: Mr.D.Gandhiraj Special Government Pleader
for R4	: Mrs.M.Aasha Government Advocate (Crl.Side)
for R5	: Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers

In W.P.(MD)No.20951 of 2024:

Pastor J.Titus ... Petitioner

VS.

1.The District Collector,
Nagercoil, Kanyakumari.

2.The Sub Collector,
Padmanathapuram,
Kanyakumari.

3.The Superintendent of Police,
Nagercoil,
Kanyakumari.

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4.The Revenue Divisional Officer,
Padmanathapuram,
Kanyakumari.

5.The Executive Officer,
Mandaikadu Town Panchayat,
Mandaikadu, Kanyakumari.

6.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the first respondent District Collector in Ref.No.Pa.Mu.C3/44370/2021 dated 29.12.2022, quash the same and further direct the first respondent to permit the petitioner to demolish the existing Church building and to reconstruct the Church building in Re.Sy.No.301/22, Mathavilai, Kanyakumari District.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents
for R1, R2, R4 & R5 : Mr.D.Gandhiraj
Special Government Pleader
for R3 & R6 : Mrs.M.Aasha
Government Advocate (Crl.Side)
for R7 : Mr.V.Sasi Kumar



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COMMON ORDER

The Writ Petition in W.P.(MD)No.20951 of 2024 has been filed challenging the order passed by the first respondent dated 29.12.2022 rejecting the request made by the petitioner seeking permission to conduct convention meetings in the building comprised in Survey No.301/22, situated at Mandaikadu Village, Kalkulam Taluk, Kanyakumari District.

2. The petitioner is a Full Gospel Pentecostal Church. One of the members of the petitioner donated the land comprised in R.Survey No.301/22 ad-measuring 6 ½ cents with building *vide* Gift Deed dated 15.02.2001 registered *vide* Doc.No.125 of 2001. Thereafter, it was treated as a Church and is conducting periodical prayer meetings and yearly convention meetings in the said building. However, the other religious people had objected the prayer meetings conducted in the premises. While being so, the fourth respondent passed an order dated 24.11.2005, thereby, directed the petitioner not to conduct any convention meetings without prior permission. It was



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challenged before this Court in W.P.(MD)No.39683 of 2005 and the same was allowed by an order dated 09.12.2005, holding that for conducting prayers and re-affirming rights of the citizens under Article 25(1) of the Constitution of India to profess, practice and propagate religion, there is no need to keep any permission.

3. Further, without converting the premises into Church, it was not assessed by the Panchayat for property tax in the name of the Church. Therefore, once again the petitioner submitted a representation seeking mutation of Revenue records in the name of the Church. However, the said request was rejected, due to which another Writ Petition was filed in W.P. (MD)No.18162 of 2009. By an order dated 01.10.2009, this Court has directed the petitioner to approach the Revenue authorities with relevant documents. However, the request made by the petitioner was rejected by the first respondent by its communication dated 31.12.2009.

4. Once again the petitioner approached the authorities for change of name in the Revenue records. As it was not considered, the petitioner



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approached this Court in W.P.(MD)No.3165 of 2011. While pending the said request, the petitioner submitted a representation to the Police authorities seeking permission to conduct annual convention meeting. On receipt of the same, the Deputy Superintendent of Police by its proceedings dated 14.09.2019 granted permission with some conditions. However, another individual person challenged the permission granted by the Deputy Superintendent of Police in W.P.(MD)No.20927 of 2019. In the meanwhile, the rejection of mutation of Revenue records was challenged by the petitioner before this Court in W.P.(MD)No.29074 of 2011 and the same was dismissed by an order dated 29.10.2021, directing the petitioner to stop the prayer meetings. While being so, another representation was made by the petitioner dated 02.08.2022 seeking permission to conduct 30th yearly convention meeting. It was rejected by an order dated 08.08.2022 and the same was challenged before this Court in W.P.(MD)No.22455 of 2022. Simultaneously, a third party filed W.P.(MD)No.18124 of 2022 seeking direction to restrain the official respondents from permitting the petitioner to conduct the prayer meetings and conventions.



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5. While being so, the Revenue Divisional Officer conducted an enquiry and directed both the parties to abide by the orders passed by this Court in both Writ Petitions. Further, the petitioner also submitted a representation seeking permission to demolish the existing construction structure and restructure the same. While being so, the sixth respondent in W.P.(MD)No.20951 of 2024 approached the respondents 1 to 5 to restrain the petitioner from conducting regular prayers. On the complaint, the first respondent passed an order dated 29.12.2022, thereby, refused the permission sought for by the petitioner to conduct convention meeting due to law and order issues in the said area.

6. On a perusal of the counter filed by the fifth respondent and the submissions made by Mr.D.Gandhiraj, learned Special Government Pleader, it reveals that the said building is situated within a distance of 300 meters from Hindu temples. Therefore, there was a law and order issue and as such Revenue Divisional Officer passed an proceedings dated 24.11.2005 directed the petitioner not to conduct any prayer meeting in the building without getting any prior permission from the authorities. So far, the building is not



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converted into Church and as such the Town Panchayat has not made any name transfer in respect of the property. The property tax has been assessed in the name of the person, who gifted the said building in favour of the petitioner itself. Without getting any approval from the first respondent, the fifth respondent cannot make any transfer as per Clause 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972, as follows:

“No site be used for the construction of a building intended for public worship or religious purposes, without the prior approval of the Collector of the district who may refuse such approval, if in his opinion, the use, purpose of the site and building is likely to endanger public peace and order.”

7. Thus, it is clear that the first respondent's permission is necessary and as such the fifth respondent has no role in the issue. That apart, already a request of the petitioner seeking conversion into Church from residential building was rejected and that was confirmed by this Court in W.P.(MD)No. 29074 of 2011 dated 29.10.2021.



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8. Approval from the competent authority is a mandatory provision and without effecting name transfer from the competent authority, the building construction cannot be made. For the building permission, the approval was granted for residential building, subsequently, it was converted into Pentecostal Church. The Church conversion is impermissible under law. Thus, the authorities have rightly rejected petition and the Government also rejected the application submitted by the petitioner. Therefore, illegally recording the conversion of residential building into religious institution can never be approved and as such the request made by the petitioner is rejected.

9. Further, the sixth respondent submitted objections not to accord permission for conducting convention meeting in the Church building, as there was a law and order issue and other problem in public peace and tranquillity. In fact, the second respondent initiated action under Section 111 of Cr.P.C. and directed both the parties, namely, the petitioner as well as the sixth respondent not to involve any activities affecting peace and public tranquillity for a period of six months.



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10. On a perusal of the counter filed by the third respondent and submissions made by Mrs.M.Aasha, learned Government Advocate (Crl.Side), it reveals that in the subject place, there are 150 Hindu families, 15 CSI families and 10 Pentecostal families. The petitioner is conducting prayer on each Wednesday, Friday and Sunday. During the prayer days, the other village people have come to participate in the prayer. The petitioner, without any permission from the authorities concerned, cannot convert the residential building into the Pentecostal Church. In fact, the petitioner lodged the complaint seeking permission to conduct convention meeting. While being so, the seventh respondent raised objection to conduct convention meeting. However, now, time has been expired and that prayer of the petitioner become infructuous.

11. In respect of the very same dispute between Pentecostal Church and Hindu in Mandaikadu village, already an FIR has been registered a criminal complaint in Cr.No.161 of 2014 for the offences punishable under Sections 147, 148, 427, 506(i), 286, 448, 294(b), 326, 354 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, Cr.No.162 of



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2014 and Cr.No.96 of 2014. Thereafter, the fourth respondent conducted an enquiry and directed both the parties to keep with peace. That apart, the order passed by the first respondent has been challenged after the period of nearly 2 years. This Court does not find any infirmity or illegality in the order passed by this Court. This Writ Petition is liable to dismissed.

12. Accordingly, Writ Petition in W.P.(MD)No.20951 of 2024 is dismissed. In view of the order passed in W.P.(MD)No.20951 of 2024, W.P.(MD)No.36011 of 2024 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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

To
1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Sub Collector,
Padmanathapuram,
Kanyakumari.



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G.K.ILANTHIRAIYAN,J.

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