



W.P.(MD)No.6861 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.03.2025

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THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.6861 of 2025

R.Kannan

... Petitioner

VS.

1.The District Collector,
Nagercoil, Kanyakumari District.

2.The Superintendent of Police,
Nagercoil, Kanyakumari District.

3.The Revenue Divisional Officer,
Padmanabhapuram, Kanyakumari District.

4.The Commissioner,
Colachel Municipality,
Colachel, Kanyakumari District.

5.The Inspector of Police,
Colachel Police Station,
Colachel, Kanyakumari District.

6.Muslim Muhalam,
Colachel-629 251,
Kanyakumari District,
represented by its President.

... Respondents

(R6 was *suo motu* impleaded vide order of this Court, dated 14.03.2025)



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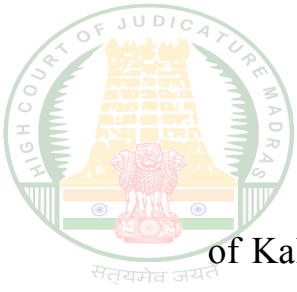
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to take action in lieu to the letter by the fourth respondent in Na.Ka.No. 499/2023F1, dated 08.08.2023 against the illegal prayers conducted in the dwelling house situated at Door No.B1-5/5 of Kalkulam Taluk, Colachel Municipality, Kanyakumari District.

For Petitioner :Mr.T.Wins
For R1, R3 and R4:Mr.A.Kannan
Additional Government Pleader
For R2 and R5 :Mr.M.Karunanithi
Government Advocate
For R6 :Mr.Mohamed Athiff

ORDER

The petitioner seeks for a Mandamus to direct the State respondents to take action on the letter issued by the fourth respondent in Na.Ka.No.499/2023F1, dated 08.08.2023 against the illegal prayers conducted in the dwelling house situated at T.S.No.B1-5/5 of Kalkulam Taluk, Colachel Municipality, Kanyakumari District.

2.The petitioner states that the sixth respondent, Muslim Muhalam, Colachel, is attempting to convert the property situated at T.S.No.B1-5/5

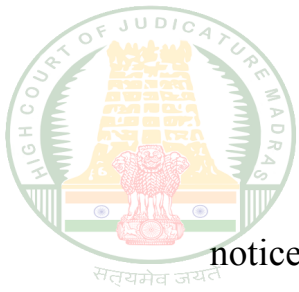


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of Kalkulam Taluk, Colachel Municipality, Kanyakumari District, into a place of religious worship without obtaining permission from the District Collector of Kanyakumari.

3.The petitioner pleads that the property situated in the aforesaid town survey number belongs to one Saleela Begum. She had obtained permission from the Municipality to put up a residential building. She constructed a marriage hall with fiber sheets over the roof of the building. The petitioner alleges that the sixth respondent convinced Saleela Begum and started using the building as a Mosque by offering prayers therein. He pleads that the entire action is illegal, since the building plan was sanctioned only for residential usage and not for any religious purposes.

4.He pleads that in terms of Tamil Nadu Combined Development and Building Rules, 2019, Saleela Begum or the Colachel Muslim Muhalam would have to get permission from the appropriate authorities to use a building for religious purposes. He states that he made a representation on 11.07.2024 to the State respondents bringing to their



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notice that the usage of the building is in violation of the laws. As no action has been initiated, he has come forward with the present Writ Petition.

5. When the Writ Petition came up for admission, I noticed that Muslim Muhalam, Colachel had not been impleaded as a party to the Writ Petition and therefore, they were *suo motu* impleaded as sixth respondent. Notice was issued to all the parties.

6. Mr. A. Kannan, learned Additional Government Pleader took notice for the respondents No. 1, 3 and 4, Mr. M. Karunanithi, learned Government Advocate took notice for the respondents No. 2 and 5. When I took up the matter yesterday (24.03.2025), Mr. Mohamed Athiff, who is appearing for the sixth respondent, stated as follows:

“(i) There is no mosque situated at Door No. B1-5/5, Kalkulam Taluk, Colachel Municipality, Kanyakumari District;

(ii) The Premises is a dwelling house used only for the purpose of ‘Iftar’ for womenfolk during the holy month of Ramzan. He adds that after the month of Ramzan is over, holding of ‘Iftar’ will not arise;

(iii) He is clear and categorical that no “baans” are being offered nor are there any minarets in the premises to call the faithful for prayers and finally;

(iv) that the sixth respondent is not nor will it use the



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premises as a mosque or for any other religious purpose, till it obtains permission form the appropriate authority in the District.”

7.As I was not inclined to dispose of the Writ Petition by merely recording the statement of the learned Counsel for the sixth respondent, I called upon Mr.Mohammed Athiff to file an affidavit of the sixth respondent before this Court to the aforesaid effect.

8.Today, Mr.Mohammed Athiff, has filed an affidavit of the sixth respondent and the relevant portion reads as follows:

“3.I respectfully state, the petition mentioned property is not a mosque and has never been used as a mosque. There are no regular 5 times mandatory prayers conducted in the said property nor is the call for prayer (Azaan) made any time. There is no minarets or mimber in the said structure, which are essential for a mosque. The said structure has also not been subjected to any permanent dedication and is a built up vacant structure which has been temporarily used as a theological school (Madrasa) for the present. I reiterated that, the said structure has never been used a mosque and is not intended to be used as a mosque for the present. In case, we intend to use or convert the same as a mosque, the same would be so done only after obtaining a NOC in terms of Rule 9 r/w. Annexure XVII of the Tamil Nadu Combined Development and Building Rules, 2019. At present during the period of Ramadhan fasting the Muslim women of the area, jointly break their fast in the ifthaar conducted in the said place which is done on a charity basis as women are not traditionally allowed to pray in mosques with men. The said conduct of ifthaar and associated rituals is done



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only during the month of Ramadhan and not thereafter. It is relevant to note that, the conduct of a Madrasa does not fall within the prohibition of the Rules and is not considered to be a place of worship but a place of theological education and a No objection certificate from the district collector is not required for a Madrass as has been held by this Hon'ble Court in A.Mohamed Kani vs. Executive officer, W.P(MD)No.23406 of 2022 dated 11.10.2022."

9.This affidavit makes it clear that the premises is not being used as a Mosque nor will it be used for any religious purpose till appropriate permissions are obtained in terms of the Tamil Nadu Combined Development and Building Rules, 2019.

10.As stated in the affidavit, it is being used only for breaking of fast during the Holy month of Ramzan. The statement made in paragraph No.3, is recorded as an undertaking given by the sixth respondent before this Court that the premises will not be used for any religious purposes. Needless to add, in case of any violation, the State respondents are entitled to initiate appropriate action in accordance with law. This is without prejudice to the rights of any of the party to approach this Court by way of a Contempt Petition.



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WEB COPY 11.The Writ Petition is disposed of. No order as to costs.

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

25.03.2025

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To

1.The District Collector,
Nagercoil, Kanyakumari District.

2.The Superintendent of Police,
Nagercoil, Kanyakumari District.

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V. LAKSHMINARAYANAN, J.

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