

W.P(MD)No.11276 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.11276 of 2020

and

W.M.P(MD).Nos.9856, 9857and
9860 of 2020 and 15125 of 2021

Paulraj

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District.
Nagercoil.

2.The Sub Collector,
Padmanabhapuram,
Thuckalay,
Kanyakumari District.

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

4.The Executive Officer,
Pacode A Town Panchayat,
Vilavancode Taluk,
Kanyakumari District.

5.Y.Thangaraj

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order, passed by the first respondent herein in Pa.Mu.Ci-3/28581/2016, dated 06.03.2020 and the consequential impugned proceedings passed by the fourth respondent herein in Building Plan No. 17/20-21 dated 07.07.2020 and quash the same as illegal.

For Petitioner	: Mr.C.Kishore
For R1 to R4	: Mr.N.Satheesh Kumar Additional Government Pleader

ORDER

In the preamble to the Constitution of India, we the people have resolved to Constitute India as a secular Republic. Article 15(1) is as follows:

*15.Prohibition of discrimination on
grounds of religion, race, caste, sex or place of
birth*

*(1)The State shall not discriminate against
any citizen on grounds only of religion, race,
caste, sex, place of birth or any of them.*



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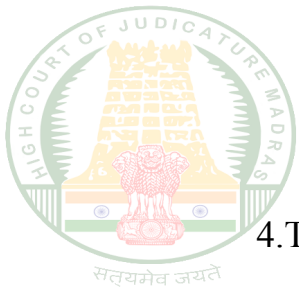
Article 51 A (e) is as follows:

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*51A.Fundamental duties it shall be
the duty of every citizen of India
(e) to promote harmony and the spirit of
common brotherhood amongst all the people of
India transcending religious, linguistic and
regional or sectional diversities; to renounce
practices derogatory to the dignity of women.*

2.The Fundamental Rights and Duties are sacrosanct and binding on the Courts which adjudicate issues relating to the religion.

3.The writ petition has been filed in the nature of Certiorari calling for the records of the impugned order passed by the first respondent/District Collector, Kanyakumari District, dated 06.03.2020 and consequential proceedings passed by the fourth respondent/Executive officer Pacode A Town Panchayat, Vilavancode Taluk, Kanyakumari District, dated 07.07.2020 and to interfere with the same.



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4.The petitioner is a resident of Neduvilai, Kodaivilai, Maruthancode Post, Kanyakumari District. He says that he is a Hindu. One of the basic tenants to be followed by every Hindu is tolerance. Tolerance must be his own community or religion and in particular, to also to every other religious practice.

5.The petitioner, however, has raised objections particularly against the fifth respondent herein, who had apparently build a church, which in the eyes of the petitioner is causing nuisance because the respondent conducts prayers using loudspeakers through out day and night.

6.The petitioner herein had earlier filed W.P.(MD).No.9127 of 2019 and it is claimed that it is pending. The relief in that writ petition was to direct the first and second respondents therein namely, the Superintendent of Police, Kanyakumari and the Inspector of Police, Marthandam Police Station, Kanyakumari District to ensure that the third to sixth respondents therein, who are private individuals cannot use their house for prayer purpose by using loudspeakers and to remove the CCTV cameras put by the third to sixth respondents in their house facing the house of the petitioner herein.



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7.W.P.(MD).No.9127 of 2021 had already been disposed of based on an undertaking of the fifth respondent herein that he would not use loudspeakers. I am informed that learned Single Judge of this Court had examined the particular relief sought and had also directed to remove or refocusing of the CCTV cameras.

8.However, that is not the grievance in the present writ petition. The present has been filed owing to the fact that the first respondent had passed an order of approval granting building permission for the church and consequential orders have been passed by the fourth respondent therein. It is stated that prior to the issuance of confirmation of such permission, the petitioner was not heard.

9.The petitioner is a resident in the area and building permission is issued only to the person who applies for such permission. The petitioner being a resident is not directly involved with the construction. He may have grievances over the activities which are being conducted or for which the building is put to use.



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10.The learned counsel for the petitioner had relied on a judgment of learned Single Judge of this Court and the Hon'ble Supreme Court wherein, permission granted to run a church had been examined. In W.P.No.11903 of 2003, *South India Assemblies of God Vs the District Collector, Kanyakumari District and others*, the relief sought was of negative nature seeking a Mandamus restraining the right of the petitioner, Assemblies of God to Church situated at Kanyakumari. The learned Single Judge had passed an elaborate order and had dismissed the Writ Petition. Therefore, the District Collector had refused to give permission to put up a Church.

11.In the instant case, the District Collector quite apart from examining all aspects had finally granted permission to the fourth respondent to put up a Church, or rather to convert the existing house into a church. It is complained by the learned Counsel for the petitioner that the building or now the Church, is in a residential area. However, it is seen that there is also a temple in that particular residential area. The petitioner should learn to live with everybody else around him. This country takes the pride in unity in diversity. There cannot be diversity in unity. The petitioner should accept the group of people



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living across, and around with him and he should also accept that people of various faith and various caste, creed and religion and given rights under the constitution. The country is a secular country recognising practice of religion. The petitioner cannot make compliant against the same. The District Collector, Kanyakumari District, may by himself/herself or through the Sub Collector, Padmanabhapuram have a meeting with the fourth respondent and impress upon the fifth respondent that it is only prudent to be restrained and it is not required that a prayer should put forth in loudspeakers for the God to hear. Let the fourth respondent also realise his responsibilities and appreciate that liberty has been granted to him to respect the residence in that area. Let the prayers be conducted in a gentle manner.

12. Therefore, if the first respondent/District Collector either by himself/herself or through the second respondent/Sub Collector, Padmanabhapuram, were to impress upon the fifth respondent to practice tolerance and respect, then I am confident that sense and sensibility would prevail over pride and prejudice.



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13.The Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

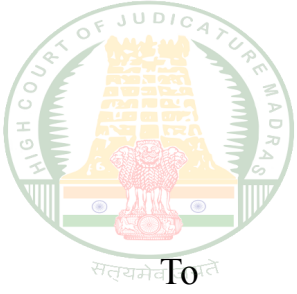
10.01.2022

Index : Yes / No

Internet : Yes/ No

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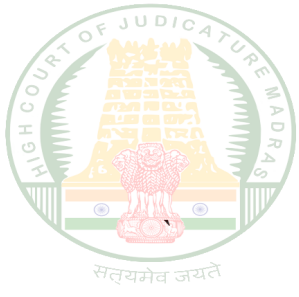
Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



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C.V.KARTHIKEYAN, J.

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