

W.A.(MD)No.694 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.01.2025

DELIVERED ON : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **RMT.TEEKAA RAMAN**
and
THE HONOURABLE MR.JUSTICE **N.SENTHILKUMAR**

W.A.(MD)No.694 of 2020

A.Jacob Sahariah
District Secretary,
CSI Church Erichamamoottu Villai,
CSI Kanniyakumari Diocese,
Kanniyakumari District.

... Appellant

-vs-

1.The District Collector,
Nagercoil, Kanniyakumari District.

2.The Executive Officer,
Kumarapuram Town Panchayat,
Kanniyakumari District.

3.Rt.Rev.G.Devakadashyam,
Bishop,
Kanniyakumari Diocese CSI,
Kanniyakumari District.

...Respondents



W.A.(MD)No.694 of 2020

Prayer: This Writ Appeal is filed under Clause XV of Letters Patent, to set aside the order passed in W.P.(MD)No.8934 of 2009, dated 20.02.2019 on the file of this Court.

For Appellant	:Mr.T.Lajapathi Roy, Senior Counsel for Mr.C.Prithiviraj
For R1 and R2	:Mr.G.Suriyaananth Additional Government Pleader
For R3	:No Appearance *****

JUDGMENT

[Judgment of the Court was made by **N.SENTHILKUMAR, J.**]

The unsuccessful Writ Petitioner had preferred the present Writ Appeal challenging the order passed by the learned Single Judge in W.P(MD)No.8934 of 2009, dated 20.02.2019.

2.It is the case of the appellant that the appellant CSI Church belongs to Kanniyakumari Diocese, Kotticode had approached the first respondent herein for the construction of Sunday Bible School as required under Rule 4(3) of the Tamil Nadu Panchayat Building Rules, 1997 and the same was rejected by the first respondent. The rejection was made after obtaining the report from the Revenue



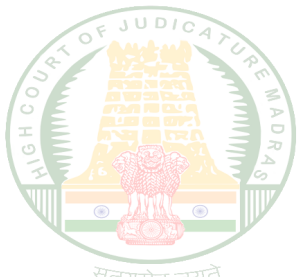
W.A.(MD)No.694 of 2020

WEB COPY

Divisional Officer and the Superintendent of Police, Kanniyakumari District. Challenging the same, the appellant had preferred the above Writ Petition. The learned Single Judge had dismissed the said Writ Petition with the following observations:

“8.The impugned order is a speaking order and the reasons given for the rejection of the application submitted by the petitioner to start a Bible Study Centre are valid reasons in the considered view of this Court. The first respondent has got the power to refuse the permission under Rule 4(3) of the Tamil Nadu Panchayat Buildings Rules, 1997, if in his opinion, the use of the site or the building is likely to endanger public peace and order. As seen from the impugned order, if permission is granted to the petitioner, there is a likelihood of endangering the public peace and order.”

3.The learned Senior Counsel appearing for the appellant contended that the impugned order in the Writ Petition, the permission was rejected on the basis of a report of the Superintendent of Police with regard to the construction of Bible Study Centre in R.S.No.552/1 of Kothanallur Village citing law and order problem and the Revenue Divisional Officer by taking note of the Letter No.A2926/2004, dated 27.06.2005, which is an enquiry report stating that the people having different religious faith had raised objections. The learned Senior Counsel contended that the report of the Superintendent of Police Letter

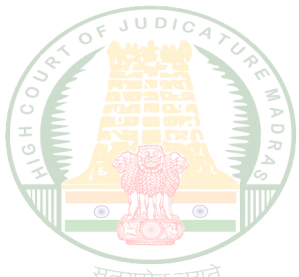


W.A.(MD)No.694 of 2020

No.G1.39376/2004, dated 07.12.2024 and the letter of the Revenue Divisional Officer, Padmanabhapuram vide Letter No.A2926/2004, dated 27.06.2005, were not furnished to the Writ Petitioner.

4.The learned Senior Counsel drew the attention of this Court to the settlement deed, dated 25.11.1998 registered as Doc.No.2355/1998 in R.S.No. 552/1 for an extent 706.98 sq.ft. of land and contended that the appellant wanted to construct a Bible Study Centre in their private land. However, the first respondent herein has passed the order impugned in the Writ Petition by citing law and order. The learned Senior Counsel contended that Articles 25 and 26 of Constitution of India empowers the practice of religious faith.

5.The learned Additional Government Pleader appearing for the respondents 1 and 2 contended that there is an objection by the people having faith in a different religion, as that of the appellant and the report of the Revenue Divisional Officer is necessary to take note of the ground reality for maintaining law and order. The main contention of the learned Additional Government Pleader is that if such permission is granted to the appellant, it will breach peace



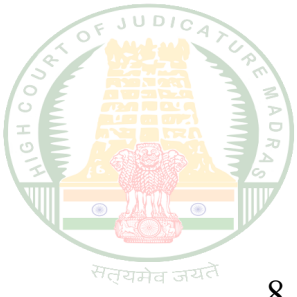
W.A.(MD)No.694 of 2020

and and tranquillity in the vicinity and it will unrest in the society.

WEB COPY

6.Originally one Rt.Rev.G.Devakadashyam filed the writ petition on behalf of the CSI Church, Erichamamootu Village, Kanyakumari District. Since he demitted his office, the present incumbent, has this writ appeal. This Court, by order dated 04.08.2020 in C.M.P.(MD) No.3593 of 2020, has granted leave to appellant herein to file this appeal. Accordingly, this writ appeal has been numbered.

7.In reply to the submissions of the learned Additional Government Pleader appearing for the respondents 1 and 2, learned Senior Counsel appearing for the appellant would contend that the appellant is ready and willing to give an undertaking that he will not put any electronic display board and loudspeakers outside the proposed building, after completion of construction, which are anticipated by the revenue officials that it will create a law and order problem in the locality. The said submission of the learned Senior Counsel is hereby recorded.

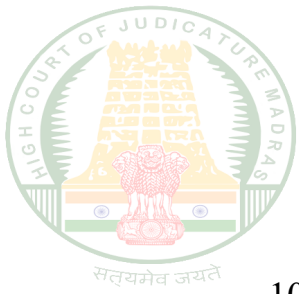


W.A.(MD)No.694 of 2020

WEB COPY

8. Admittedly, the letter of the Superintendent of Police and the Revenue Divisional Officer, Kanyakumari District, were not served on the appellant. The issue with regard to law and order problem is within the domain of Police and in the absence of any incident warranting and alarming such a situation, a mere objection or apprehension that it may lead to law and order situation in the locality is misnomer. Furthermore, a mere apprehension or objection of the people, who are having different faith, cannot be a ground for refusing to grant planning permission for construction of a building.

9. Here in the instant case, admittedly, the appellant is the owner of the site. The title, right and interest of the appellant are confirmed. When he has purchased the subject land under a registered sale deed with specific boundaries, he is the absolute owner being in possession of the subject land. Hence, there cannot be any valid reasons for refusing to grant planning permission for construction of Bible Study Centre. The intention of such Study Centre is only to propagate or to teach bible lessons to the students.



W.A.(MD)No.694 of 2020

WEB COPY

10. On similar set of facts, the Division Bench of this Court, by order dated 21.08.2023, in W.P.(MD) No.20299 of 2023, has held as follows:

“5. This Court is unable to accept the contention of the learned counsel for the Petitioner that Church should not come in the village where most of the population are Hindus. The Petitioner admitted that the person belonging to the same village had proposed to put up a church in the said village. It is the constitutional guarantee given to the people belonging to the minority community to establish their place of worship. Article 25 and 26 of our Constitution guarantee the right to practice and propagate one’s religion. As long as the place in which the construction of Church is not a public place, the construction of Church in a private land which is not in violation of any law, cannot be prohibited. In such circumstances, the prayer sought for by the Petitioner cannot be granted.”

11. We are of the view that the above decision of the Division Bench of this Court is squarely applicable to the case on hand

12. As enshrined by the Constitution of India under Articles 25 and 26, such a right cannot be denied or taken away on a mere objection or apprehension of law and order and there cannot be any impediment for the Government Officials, namely, the respondents 1 and 2 to deny the permission sought by the Writ Petitioner. Articles 25 and 26 of the Constitution of India are extracted hereunder:



WEB COPY

“25. Freedom of conscience and free profession, practice and propagation of religion.—

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

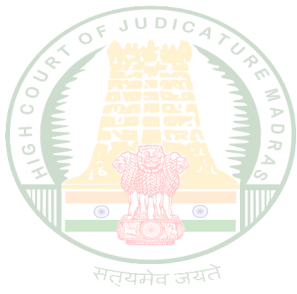
(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.”

13. In view of the above reasoning and in the interest of justice, the following orders are passed:

(i) This writ appeal is allowed.

(ii) The order dated 20.02.2019, passed in W.P.(MD) No.



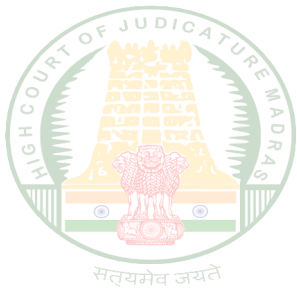
WEB COPY



W.A.(MD)No.694 of 2020

8934 of 2009, is hereby set aside.

- (iii) The writ petition in W.P.(MD) No.8934 of 2009 is hereby allowed and the relief sought for the appellant / writ petitioner is hereby granted.
- (iv) The appellant is entitled to construct the Bible Study Centre, if the proposed construction is otherwise in order as required under Rule 4(3) of the Tamil Nadu Panchayat Building Rules, 1997.
- (v) We make it clear that the reason assigned by the first respondent for rejection of the plan approval is set aside, however, the other set of rules with regard to set-off the building from the compound wall and other technical features have to be satisfied.
- (vi) As observed earlier, the undertaking of the appellant that he will not put any electronic display board and loudspeakers outside the building has to be submitted before the first respondent certified by a Notarized Public in the non-judicial stamp paper attested by the



WEB COPY



W.A.(MD)No.694 of 2020

two independent witnesses.

(vii) Thereafter, the first respondent shall pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of the undertaking.

(viii) No costs.

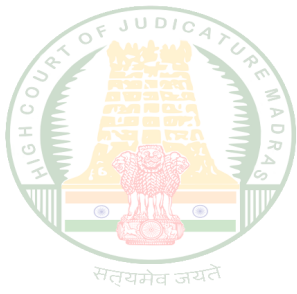
[T.K.R., J.] [N.S., J.]
29.01.2025

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

cmr/krk

To

The District Collector,
Nagercoil, Kanniyakumari District.



WEB COPY



W.A.(MD)No.694 of 2020

RMT.TEEKAA RAMAN, J.
and
N.SENTHILKUMAR, J.

cmr/krk

Pre-deliver judgment made in

W.A.(MD)No.694 of 2020

29.01.2025