

**S. Selvin Vs. The State Represented by Revenue Divisional Officer, Nagercoil Cum Sub Collector (I/C) and Others**

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**Court :** Chennai Madurai

**Decided On :** Dec-23-2016

**Judge :** R. Suresh Kumar

**Appeal No. :** W.P.(MD) No. 24841 of 2016 & W.M.P.(MD) No. 17962 of 2016

**Appellant :** S. Selvin

**Respondent :** The State Represented by Revenue Divisional Officer, Nagercoil Cum Sub Collector (I/C) and Others

**Judgement :**

(Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order in Na.Ka.No.A2/4177/2016 dated 16.12.2016 on the file of the Respondent No.1 and quash the same as illegal and consequently directing the Respondent No.1 to permit the petitioner to conduct Christmas Festival in the Evangelical Church of India, Panikulam Church, Kanyakumari District from 24.12.2016 to 01.01.2017 within the time stipulated by this Hon'ble Court.)

1. The prayer in the writ petition is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order in Na.Ka.No.A2/4177/2016 dated 16.12.2016 on the file of the Respondent No.1 and quash the same as illegal and

consequently directing the Respondent No.1 to permit the petitioner to conduct Christmas Festival in the Evangelical Church of India, Panikulam Church, Kanyakumari District from 24.12.2016 to 01.01.2017 within a time frame.

2. The learned counsel appearing for the petitioner would contend that though the petitioner has sought for permission from the first respondent through the prayer in the writ petition for permitting them to conduct Christmas function from 24.12.2016 to 01.01.2017, i.e. for a week's time, the minimum relief now they confine themselves with the prayer in this writ petition is that if the petitioner and other religious people (Christians) in the village numbering about 50 are permitted to have the Christmas function on the night of 24.12.2016 from 6.00 p.m. and the day hours upto 10.00 a.m on 25.12.2016, they would be satisfied and in this regard, the learned counsel for the petitioner would submit that whatever condition be imposed by this Court, the petitioner and others would scrupulously follow the same.

3. Per contra, the learned Additional Government Pleader appearing for the official respondents would contend that the premises in which the proposed festival is going to be conducted by the petitioner and others is neither a church nor a public building. Originally it is permitted to be constructed as a dwelling house and the owner of the building has also constructed it as dwelling house and of late it was converted either as Church or worshiping place, where prayer meetings were conducted without any permission from the Revenue Authorities. The learned Additional Government Pleader would also contend that the owner of the building had given an undertaking before the President of the concerned Village Panchayat that the said building would be used by the owner of the building only as a dwelling house and it will not be utilised for any other purpose. Though such an undertaking was given, now the very same building is being utilised by the petitioner as well as others as one of the religious worshiping building or a Church, wherein periodical meetings or prayers are being conducting where the pastors would come and preach their religious activities and because of that the people who belonging to other religions residing in the locality would be offended. Therefore, there may be law and order problem and only in this regard the Peace Committee Meeting was conducted by the first respondent on 16.12.2016. In the said meeting

representatives of both the Christian as well as Hindu Religious people residing in the locality participated. After hearing both sides, the first respondent by recording the said minutes issued a proceedings dated 16.12.2016, wherein the first respondent has observed that religious prayers or meetings had been conducted in the premises without approval and since there is likelihood of law and order problem those who want to conduct religious prayer or meeting can approach the District Collector and get proper permission from him and they can act accordingly and as against the said advisory the petitioner has come out with the present writ petition with the aforesaid prayer.

4. The learned Government Pleader would also rely upon Rule 4(3) of the Tamil Nadu Panchayats Building Rules, 1997, which reads as follows:

(3) No site shall 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 of the site and building is likely to endanger public peace and order.

Here in the case on hand, admittedly the building was approved by the local authority only for the purpose of dwelling house and if at all the same has to be converted for the purpose of worship or religious activities, certainly the same has to be referred to the District Collector for appropriate approval. Without having such approval, no such religious worship activities can be undertaken in the said premises. In view of the prohibitory Rules made in the Tamil Nadu Village Panchayat Rules, 1997, certainly the petitioner and others would not have any right to conduct any meeting for worship or a religious function in the said building. Therefore, the prayer sought for in the writ petition cannot be granted.

5. Mr.G.R.Swaminathan, learned counsel appearing for the private respondents would contend that the said Rule 4(3) is mandatorily requiring prior approval even for construction of a building, if it is intended to use for religious purpose. Admittedly no permission has been given for the said building. No religious activities, including Christmas function also can be permitted to be conducted therein. He also submits that when there is a statutory Rule, which mandates certain things to be done in a particular manner the same has to be done only in

the same manner and not otherwise. In this regard, the Rule of Law is paramount and the same has to be protected at any cost. No authority can be permitted or directed to violate the statutory rules. In this regard the learned counsel appearing for the private respondents also have relevant decisions of this Court.

6. After having considered the submissions made by the learned counsel appearing for the parties, this Court wanted the petitioner to file an undertaking affidavit restricting the proposed function on the eve of the Christmas in the said building by following certain conditions so as to conduct the said function in the premises that is within four walls of the building without having any loud speakers or any activities outside the building.

7. The learned counsel for the petitioner readily agreed to file an undertaking affidavit to that effect and accordingly an affidavit of the petitioner has also been filed, wherein the petitioner has given the undertaking in the following terms:

4.I, S.Selvin, Pastor of the Evangelical Church of India, Painkulam Church, Kanyakumari District undertake that I will comply with the following conditions scrupulously without fail for the Christmas celebration schedule on Saturday (24.12.2016) from 06 P.M. To Sunday (25.12.2016) morning 10 A.M.

i) I shall ensure that no loud speakers or any other device or installed inside and outside the premises in R.S.No.42/4B to the extend of 5 cents land and building in Painkulam Village, Kanyakumari District.

ii) I will confine the prayer time from 06.00 p.m. On 24.12.2016 to 10.00 a.m. On 25.12.2016.

iii) I will ensure that there is no violence during the prayers and disturbance, if any would be reported to concerned Police Inspector, Puthukadai and I will ensure that we will not take law into our own hands.

iv) We will restrict our prayer to members of our church approximately 50 in numbers from 30 families. That we shall give the list of members attending to the prayers to Inspector of Police, Pudukadai Police Station.

8. According to the said undertaking given by the petitioner, no loud speaker would be installed either inside or outside the premises and the entire function would start at 6.00 p.m. on 24.12.2016 and over by 10.00 p.m on 25.12.2016 and the maximum number of persons to attend the function is only upto 50 and a list of members who are going to attend the function also would be supplied to the concerned police station for verifying and monitoring.

9. In view of the said undertaking having been given by petitioner and the same has been taken on record by this Court, this Court passes the following order:

(i) The petitioner and other religious people owing allegiance to Christianity of Painkulam Village shall conduct the Christmas function at the premises in R.S.No.42/4B, Painkulam Village, Kanayakumari District from 6.00 p.m. on 24.12.2016 to 10.00 a.m. On 25.12.2016.

(ii) The total number of persons to attend and participate in the said Christmas function shall not be beyond 50.

(iii) During the entire function there shall be no loud speaker either inside the premises or outside the premises.

(iv) There shall not be any procession or any religious or worship activities outside the premises.

(v) The petitioner shall give a list of members to a maximum number of 50, who would participate and attend the said function to the concerned police station on or before 2.00 p.m. on 24.12.2016.

(vi) The concerned police shall be at liberty to take action if any such violation is noticed with the result any likelihood of endanger to communal harmony in that locality.

(vii) It is made clear that this order shall not stand in the way in deciding the issue as to whether the said building can be permitted for the purpose of religious function and worship by the authority under the Tamil Nadu Panchayat Building Rules, 1997 and in this regard such authority can take any action against the

owner of the building in the manner known to law. But such action if any on the part of the authorities can be taken only after the completion of the Christmas function as indicated above.

10. With these conditions, the prayer to the limited extend to permit the petitioner and others numbering 50 to perform or participate or conduct the Christmas function at the premises in question strictly from 6.00 p.m. on 24.12.2016 to 10.00 a.m. On 25.12.2016 is ordered.

11. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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