
(2014) 09 MAD CK 0189

In the Madras High Court

Case No : W.P. (MD). No. 12561 of 2014 and M.P. Nos. 1 to 4 of 2014

R. Juliyan Rayan

APPELLANT

Vs

The Principal Secretary and Commissioner

RESPONDENT

Date of Decision : 22-09-2014

Acts Referred:

Ancient Monuments and Archaeological Sites and Remains Act, 1958 — Section 16, 2, 3, 4

Constitution of India, 1950 — Article 226

Citation : (2014) 09 MAD CK 0189

Hon'ble Judges : R. Mahadevan, J; M. Jaichandren, J

Bench : Division Bench

Judgement

M. Jaichandren, J.—Heard Mr. T. Lajapathi Roy, the learned counsel appearing on behalf of the petitioner, Mr. M. Govindan, the learned Special Government Pleader appearing on behalf of the respondents 1 to 3, Mr. G.R. Swaminathan, the learned Assistant Solicitor General of India, appearing on behalf of the fourth respondent and Mr. G. Prabhu Rajadurai, the learned counsel appearing on behalf of the respondents 5 and 6.

2. This Writ Petition has been filed by the petitioner, as a Public Interest Litigation, praying that this Court may be pleased to issue a Writ of Mandamus, directing the first respondent to notify St. Xaviers Cathedral, situated at No. 3, Nellai Nayanar Street, Palayamkottai, Tirunelveli District, as an ancient monument, and consequently, to direct the respondents 1 and 2 to take over the Church and its properties and protect the same.

3. The petitioner has stated that St. Xaviers Cathedral, [hereinafter referred to as "the Church"], situated at No. 3, Nellai Nayanar Street, Palayamkottai, Tirunelveli District, was built during the year, 1860, and it has been used as a Church, for more than 150 years. The people belonging to Tirunelveli Region and the others, from far off places, are visiting the Church, for the purpose of worship.

4. The petitioner has further stated that the foundation stone of the Church was laid, on 30.09.1860. The Church should be declared as a protected monument, as it has got certain artistic interests. It is also of historical importance, as there are only few Churches, which have been constructed, as per the Victorian Gothic style. It has been built in the form of a Latin Cross, having a Grucie-form pattern.

5. The petitioner has further stated that the Church should be recognized as a heritage site, as certain identical Churches have been declared as heritage sites. While so, the respondents 5 and 6 have announced, during a mass prayer, held that the existing Church would be demolished and a new Church would be constructed, inspite of the objections raised by several worshippers. In such circumstances, the petitioner had sent a representation, dated 15.07.2014, to the second respondent, raising objections for the demolition of the Church and stating that it should be declared as a protected monument.

6. The learned counsel appearing on behalf of the petitioner had submitted that, as per Sections 3 and 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, [hereinafter referred to as "the Act"], the Church should be declared as an ancient and historical monument of national importance. The learned counsel had relied on Section 16 of the Act, which provides for the protection of the monument, which is a place of worship, from misuse, pollution and desecration. It has also been stated that the respondents 5 and 6 are demolishing the Church, without obtaining the necessary permission from the authorities concerned, even though it is of historical importance. The learned counsel had further submitted that the petitioner is not in a position to obtain the necessary relief from the Civil Court, as there is a bar against the filing of Civil Suits, in such matters. In such circumstances, the petitioner has preferred the present Writ Petition, before this Court, under Article 226 of the Constitution of India.

7. The learned counsel had relied on the Judgment of a Division Bench of this Court, in *The Indian National Trust for Architectural and Cultural Heritage (INTACH) Vs. The Chennai Metropolitan Development Authority, Thalamuthu Natarajan Maligai, The Corporation of Chennai and Life Insurance Corporation of India*, , in support of his contentions.

8. Per contra, the learned counsel appearing on behalf of the respondents 5 and 6 had submitted that the St. Xaviers Cathedral is not a protected monument, under the provisions of the Act. Further, for getting the status as a protected monument, the Church should be an ancient monument of national importance, as per the definition contained in Section 2 of the Act. The learned counsel had further submitted that the Church in question is in a dilapidated condition and it could pose a danger to the children studying in St. Antony's Primary School, which is located within the premises of the Church. As certain parts of the Church are in a dilapidated condition, requiring elaborate repairs, the fifth respondent has undertaken the necessary renovation and re-construction activities, for the restoration of the Church. The claims made by the petitioner, in

the present Writ Petition, are contrary to the facts. The allegation made by the petitioner that the fifth respondent is demolishing the Church, is false. The fifth respondent has started the renovation and re-construction works to restore the glory of the Church and to protect the children, studying in St. Antony's Primary School and the worshippers, who are coming to the Church, from being exposed to the danger, which may be caused due to the dilapidated condition of the Church.

9. The learned counsel had further submitted that the present Writ Petition has been filed only due to internal politics prevailing in the Roman Catholic Diocese, which is in-charge of the Church. The petitioner was instrumental in the filing of the Civil Suit, in O.S. No. 353 of 2014, on the file of the District Munsif Court, Tirunelveli, in the name of one Paul Kathiravan, the Secretary of the Church Protection Committee. There is no public interest involved in the present Writ Petition. As such, the Writ Petition, filed by the petitioner, is liable to be dismissed, as it is devoid of merits.

10. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned, and on a perusal of the records available, we are of the considered view that the petitioner has not shown sufficient cause or reason for this Court to grant the relief, as prayed for by him, in the present Writ Petition. The petitioner has not been in a position to show that the St. Xaviers Cathedral is a monument, coming under the definition of Section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. It is noted that the fifth respondent has undertaken the renovation and re-construction works in the Church, due to the fact that it has been in a dilapidated condition, posing danger to the children, studying in St. Antony's Primary School, which is located within the premises of the Church and to the worshippers, who are coming to the Church, for prayers. No concrete materials have been placed before this Court, by the petitioner, to show that the Church in question is of historical importance, as claimed by the petitioner. It is also noted that a Civil Suit, in O.S. No. 353 of 2014, on the file of the District Munsif Court, Tirunelveli, had been filed, for a similar relief. As such, the contentions raised on behalf of the petitioner cannot be countenanced. In such circumstances, we find it appropriate to dismiss the Writ Petition, as it is devoid of merits. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.