

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No.65 of 2013 (SZ)

In the matter of

1. J. Barnabas,
Manjathoppu Colony Road,
Vallavilai Post
Kollencode - 629160
Kanyakumari District

.. Applicant

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Executive Officer,
Kollencode Panchayat,
Kollencode 629 160
Kanyakumari District.
3. The District Pollution Control Engineer,
Tamil Nadu Pollution Control Board,
No.30, Kesari Street,
Mathiyas Nagar, Nagercoil 629001
4. Fr.Fredys Solomon,
Parish Priest,
St.Mary's Church,
Vallavilai Post, Kollencode 629160
Kanyakumari District.
5. Alex,
President,
St. Mary's Church,
Vallavilai Post,
Kollencode 629160
Kanyakumari District.
6. Sabariyar,
Treasurer,
St. Mary's Church,
Vallavilai, Thathaiyapuram Colony,
Vallavilai Post, Kollencode 629160
Kanyakumari District.
7. Annadasan,
Secretary,
St. Mary's Church,
Vallavilai, Thathaiyapuram Colony,
Vallavilai Post,

Kollencode 629160
Kanyakumari District

8. The Director,
Department of Environment,
Panagal Building, Saidapet,
Chennai 600 015
9. Rev.Father Lucian,
President,
St.Mary's Church, Vallavilai Post,
Kollencode 629 160
Kanyakumari District
Impleaded as respondent No.9
In M.A.No.217 of 2014 vide our
Order dated 01.09.2015.
10. Jacrubby,
Palli Road, Pallivilai Post,
Kanyakumari District 629 160
impleaded as respondent No.10
In M.A.No.43 of 2017 vide our
our order dated 30.03.2017
11. Benjamin,
Anbu Bhavan, Medavilakam,
Kollencode, Kanyakumari District
impleaded as respondent No.10
In M.A.No.43 of 2017 vide our
our order dated 30.03.2017

.. Respondents

Counsel appearing for the applicant:

M/s.S.Subbiah, Senior Counsel for P.Kumaran

Counsel appearing for the respondents

M/s.M.K.Subramanian & P.Velmani for R1
M/s.E.Manoharan for R2 & R8
Mrs.H.Yasmeen Ali for R3
M/s.C.K.M.Appaji, S.Regu, S.Shanmugam,
A.Stephen, P.Murthy & A.Vasantha Kumar for R4 to R7
Mrs.J.Anandhavalli & G.Sumitra for R10 & R11

ORDER

Present:

Hon'ble Shri Justice Dr.P.Jyothimani, Judicial Member

Hon'ble Shri P.S.Rao, Expert Member

Judgement delivered by Mr.P.S.Rao

Expert Member

23rd August, 2017

Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

This application was originally filed in Madurai Bench of the Hon'ble High Court of Madras in W.P. No. (MD) No.5431 of 2012 and later transferred to Southern Zone Bench of the National Green Tribunal, Chennai and numbered as Application No.65 of 2013. The Applicant Mr.Barnabas, a resident of Manjathoppu Colony Road, Vallavilai Post, Kollencode, Kanyakumari District is a Member of St. Mary's Church situated in Survey No.578/3 of Vallavilai, hamlet of Kollencode Panchayat. The contention of the applicant is that the respondent Nos.4 to 7 under whose Management the St. Mary's Church is existing in the village, have proposed to construct a community hall, adjacent to the Church in Survey No.578/3. In spite of the fact that there are many other places in and around the village where such community hall could be constructed to celebrate marriages and other solemn functions, the respondent Nos. 4 to 7 have chosen the site adjacent to the Church without obtaining any building permission from the competent authority and the construction is clearly within 200 meters from the sea and just 50 meters away from the protection wall constructed on the sea shore and therefore such construction attracts Coastal Zone Regulations. Therefore, the 2nd respondent, Executive Officer, Kollencode Panchayat is also not competent to give building permission to construct the community hall.

2. It is further contended by the applicant that the applicant along with a number of villagers made a complaint to the 2nd respondent on 24.11.2011

about the proposed construction by the respondent Nos. 4 to 7 and the 2nd respondent in turn has sent a communication dated 29.11.2011 to the 4th respondent that no permission has been granted for the proposed construction of community hall and it can be granted only when a No Objection Certificate is issued by the 3rd respondent, Tamil Nadu State Pollution Control Board and the 2nd respondent also issued orders prohibiting construction of community hall. Subsequently, the villagers also sent another petition dated 21.12.2011 to the 3rd respondent who, vide his proceedings dated 05.01.2012, cautioned the 2nd respondent and advised him to take action against the private respondents for undertaking the proposed illegal construction under the Tamil Nadu Panchayat Act and Tamil Nadu Public Health Act. However, no action was taken and therefore the villagers have sent another representation dated 02.03.2012. Despite the same, the respondent Nos. 4 to 7, unmindful of the statutory warning given by the 2nd respondent, have proceeded with the construction of the community hall by laying foundation and raising a compound wall. Therefore, the applicant states that he is having no other alternative except to approach the Hon'ble High Court with a prayer to issue a Writ of Mandamus or order directing the 2nd respondent to initiate proceedings against the respondent Nos. 4 to 7 for the illegal construction being made over the Survey No.578/3 in Vallavilai, hamlet of Kollencode, Kanyakumari District.

3. On transfer from the Hon'ble High Court of Madras, this Tribunal, after hearing the parties and considering the submissions made by the official respondents that construction of community hall was taken up despite the application for building construction was rejected by the District Coastal Zone Management Authority on 23.12.2011 on the ground that the

construction site is located within 200 meters from the seashore and it is a “No Development Zone – CRZ III”, *prima facie*, concluded that construction is against law and accordingly granted an order of interim injunction dated 25.03.2014 restraining the respondent Nos. 4 to 7 from further proceeding with the construction of the community hall.

4. The Executive Officer, Kollencode Town Panchayat, 2nd respondent herein, in his counter affidavit dated 18.09.2012 has submitted that within the jurisdiction of Kollencode Town Panchayat area in Survey No.578/3, there is a piece of land measuring 50 cents adjacent to Neerody to Thoothur Beach Road. On 10th August, 2011, the 4th respondent who is the Parish Priest of Vallavilai St. Mary’s Church, submitted application for approval of building plan for construction of community hall. Since the proposed construction site is falling under the Coastal Regulation Zone (CRZ), the 2nd respondent refused to grant building permission stating that unless clearance is granted under CRZ, no building permission will be granted and in the meantime, respondent Nos. 4 to 7 began to construct the community hall. Therefore, a notice dated 29.11.2011, was issued to the 4th respondent to stop the construction and sent by Registered Post. After receiving communication from the 3rd respondent, another notice dated 05.01.2012, was issued to the 4th respondent to stop the construction till the building plan approval is obtained and if the community hall is constructed in the said Survey number which falls in the ‘No Development Zone’ it may lead to huge loss to life since it is vulnerable for calamities like *tsunami* and therefore the work has to be stopped.

5. It is also stated by the 2nd respondent that he wrote a letter to the Inspector of Police, Kollencode to stop the construction. In his subsequent

reply statement dated 19.08.2013 filed by the 2nd respondent it is stated that in spite of the fact that notices were issued to stop the construction, the respondent Nos. 4 to 7 have not stopped the work and unless the District Coastal Zone Management Authority, the District Environmental Engineer, Pollution Control Board and the Deputy Director, Town and Country Planning, Tirunelveli give clearance, the 2nd respondent will not be able to grant building permission.

6. The 3rd respondent, District Environmental Engineer, Nagercoil in his report dated 21.02.2014 has stated that the subject of construction of community hall was placed before the District Coastal Zone Management Authority, Kanyakumari District in its 52nd meeting held on 23.12.2011 and the proposal was rejected by the Authority since the site is located within the 'No Development Zone' of 200 meters from High Tide Line (HTL) and it falls under CRZ III. It is also stated by the respondent No. 3 that the representation received from the applicant and others was sent to respondent No.2 requesting him to take necessary action under the provisions of law relating to local bodies since he (respondent No.2) is the competent authority to take action and in the meanwhile, construction of the community hall is continuing. Later, based on the instructions dated 21.04.2014 of this Tribunal, 3rd respondent has filed another Status Report dated 25.04.2014 bringing out the same facts as reported earlier. However, it was stated that fresh inspection was carried on 22.04.2014 and the following observations were made:

1. *Community hall consists of two floors (ground and first floors). The main civil works have been completed.*
2. *Plastering of walls and roof completed and white cement coating on the roof and walls have been made in both the floors and on the outside, except front side.*
3. *Front elevation works were under progress*

4. *Ground Floor has been proposed for dining hall with kitchen and interior works in the kitchen was under progress.*
5. *The first floor has been proposed for reception hall.*
6. *Electrification works on both the floors were under progress.*
7. *Flooring has not been made on both the floors.*
8. *The site is located at about 40 meters from the sea shore*
9. *Interior decoration have not been carried out so far.*

It was informed by the Authorities present at the community hall at the time of inspection, that no works have been carried out during the past two weeks.”

7. Another Report was filed by the 3rd respondent dated 5th August, 2014 stating that

1. *the site is located at about 40 meters on the northern side of the sea shore falling under the 'No Development Zone' since it is within the 200 meters from the HTL,*
2. *there is a village road in existence in between the sea shore and the community hall*
3. *there are residential houses and coconut thoppu on the eastern side and western side and coconut thoppu on the northern side of the community hall. Seashore is on the southern side of the community hall.*
4. *St.Mary's church is located 200 m away on the western side of the community hall and the primary school also located nearby the church and the construction is in progress and the total cost is about Rs.300 lakhs”*

and the Executive Officer, Kollencode Town Panchayat, 2nd respondent, herein, has already been requested to take necessary action against the respondent Nos. 4 to 7.

8. Subsequently, one more report has been filed by the 3rd respondent dated 18.08.2014 stating that the site was again inspected on 18.08.2014 as per the directions of this Tribunal dated 07.08.2014 and the construction has been completed and the ornamental works are going on. Therefore, a letter was issued by the 3rd respondent to the 2nd respondent once again requesting him to take steps to stop all the activities.

9. One more report was filed by the 3rd respondent on 26.08.2014 on the directions of this Tribunal dated 20.08.2014. The 3rd respondent submitted

that he inspected the site on 21.08.2014 and found that the community hall was formally inaugurated on 18.08.2014.

10. The 5th respondent filed affidavit dated 28.10.2013 contending that the applicant has no *locus standi* either to file or maintain the application and the application is motivated with personal interest and vengeance and no public interest is involved in the case. It is further stated by the 5th respondent that he made a complaint against the applicant in Kollencode Police Station that the applicant along with his supporters have assaulted him and the case was registered as Crime No.38 of 2009 against the accused and a charge sheet was also filed in S.T.C. No. 333 of 2009 on the file of the learned Judicial Magistrate No.2, Kuzhithurai. Because of the above, the applicant and the other accused are inimical towards him wanting to wreak vengeance and filed the writ petition before the High Court.

11. It is further contended by the 5th respondent that the applicant is no longer a Member of the St.Mary's Church and he was not paying any subscription. Contrary to the applicant's allegation in the affidavit, no other land is available except the present site which was gifted by a philanthropic association called The Gilnet Boat Owners' Association and there is a clause in the Deed of Conveyance of land to the effect that the land shall not be used for any purpose other than building the *Kalyanamandapam*. Otherwise, the Deed is liable to be cancelled. The allegation of the applicant that the construction without any valid building permission from the competent authority, is absolutely false and the CRZ Notification is not applicable in this case.

12. It is further stated by the 5th respondent that no warning, either statutory or otherwise, was issued by any authority and the place of construction which falls in Kollencode Panchayat which is a Town Panchayat, is not governed by Tamil Nadu Panchayat Act and the rules made thereunder. No action against respondent No. 4 to 7 can be taken by the 2nd respondent since the 2nd respondent i.e. Executive Officer of the Town Panchayat is not governed under Tamil Nadu Panchayat Act, 1994.

13. In his Additional Affidavit dated 26.04.2014, the 5th respondent denied the allegation that the proposed construction of community hall in Survey No.578/3 of Vallavilai, hamlet of Kollencode falls within the prohibited area and as per CRZ - II, construction of buildings can be permitted on the landward side of the existing site and the proposed road / existing authorised structures subject to the existing local Town and Country Planning Regulations including the FSI/ FAR norms and already St.Mary's Church was built in Survey No.578/3 about 100 years ago and adjacent to the Church, St. Judas Primary School is also functioning. The community hall is situated on the left side extreme end of Survey No.578/3 located in between the School – Church and the Arabian Sea, Neerodi – Thoothur State Highways Road and the proposed community hall is existing on the landward side of the State Highways Road. Therefore, the restriction under the Coastal Area Classification and Regulation is not applicable to the community hall.

14. It is further contended by the 5th respondent that in the year 2011, the fisher folk of Vallavilai contributed money for the construction of community hall from their hard earned savings for the purpose of conducting marriages and other functions. Accordingly an application was made along with

building plan before the Kollencode Town Panchayat and the Panchayat by resolution No.1486 dated 11.07.2011 resolved to approve the plan subject to the approval of Tamil Nadu Pollution Control Board and Town and Country Planning Department and the Panchayat has forwarded the plan to the concerned Department but the communication in this regard is yet to be received. In the meanwhile construction was commenced with the *bonafide* belief that there will not be any embargo in getting the plan approval. In order to settle the personal score and to disturb the peaceful atmosphere in the village, the applicant herein, filed the Writ Petition with *malafide* intention to dismantle the community hall showing his vindictive attitude. The 5th respondent stated that the applicant Barnabas has collected funds from fishermen and commenced another construction in the same vicinity and in this connection a Writ Petition in W.P.(M.D). No.13270 of 2009 has been filed before the Hon'ble High Court of Madras, Madurai Bench which is pending.

15. The 5th respondent has filed one more affidavit dated 02.09.2014 stating that he is the ordained member of the Roman Catholic St. Mary's Church located in Survey No.578/3, Vallavilai and in the same Survey No. the Church Members have unanimously resolved to build the community hall from their own contributions but the applicant and few other members have opposed construction as they have chosen another place. As the applicant has failed in his attempt to stall the commencement of the construction of community hall, on 14.4.2009 at about 7.30 a.m., 15 persons including the applicant assaulted the 5th respondent with deadly weapons and the 5th respondent sustained grievous injuries throughout his body and a case was registered with Inspector of Police, Kollencode .

16. The proposal for construction of community hall was started as long back as in 2009 after applying for approval of plan with bonafide intention for public utility purpose. When the construction was at the finishing stage, the Hon'ble Tribunal by an order dated 25.03.2014 restrained the respondents from proceeding with the construction work. Subsequently another order was passed on 28.04.2014 after verifying the photographs of the construction of community hall restraining the respondents from making any further construction from the stage at which it stands as found in the photographs produced and reported by the Pollution Control Board.

17. The 5th respondent further stated that the community hall is located on the landward side of State Highways Road and the construction of such building is permissible under Annexure I of the Coastal Area Classification and Development Regulation Norms 6 (2) CRZ - II. Already in the same Survey No. a big Church is existing and a Primary School is also available. The area is thickly populated and plenty of multi-storey buildings are situated in the landward side of the Neerodi - Thoothur State Highways Road. None of the buildings are subjected to any restrictions but unnecessarily construction of community hall alone was targeted. However, based on the injunction dated 25.03.2014 granted by the Tribunal, they have stopped the construction activity. But despite the objection made by the 5th respondent the wife of the applicant and other members of fisher folk community revolted and organised opening ceremony of the community hall on 18th August, 2014 in the presence of Hon'ble Union Minister. The 5th respondent submits that though he brought to the notice of the Members about the Tribunal order restraining them from further construction and inauguration of the building, the opening ceremony

was held. Finally the 5th respondent submitted that he has not committed any wilful act.

18. The 6th respondent Mr. N. Sabariyar who is the Treasurer, St. Mary's Church, in his affidavit dated 02.09.2014, contended that the construction was taken up for the benefit of local fisher folk for conducting marriages and organising other functions for which proposal was submitted to competent authorities for granting permissions and after lapse of several years and after commencement of construction work, the applicant filed Writ Petition which in turn was transferred to this Tribunal. The applicant filed this application with vindictive nature in the guise of Public Interest Litigation to settle personal score. Construction of community hall for public purpose would not create any pollution or hazard or environmental damage and the hall is situated far away from the Arabian Sea and in between the sea and community hall, the Neerodi-Thoothur State Highways Road is running and the activity is permissible under Annexure I of CRZ norms 6 (2) CRZ - II. Rest of the averments made by 6th respondent are similar to those made by 5th respondent. Likewise, the 7th respondent, Secretary, St. Mary's Church also filed affidavit on the same date viz., 02.09.2014 bringing out the same facts and contentions that were raised by 5th and 6th respondents.

19. The Director, Department of Environment, Tamil Nadu who was impleaded by the Tribunal as 8th respondent by order dated 18.07.2013, has filed reply affidavit dated 30.01.2014 stating that the proposal seeking Environmental Clearance (EC) under the CRZ Notification was received by the District Coastal Zone Management Authority, Kanyakumari District through the 2nd respondent for the construction of community hall in Survey

No.578/3 Kollencode Village, Vilavancode Taluk, Kanyakumari District. The proposal was placed before the 52nd Meeting of the District Coastal Zone Management Authority, Kanyakumari District on 23.12.2011 and as the site is located within 200 meters from the HTL which is designated as 'No Development Zone' – CRZ - III, the Authority rejected the proposal. The District Coastal Zone Management Authority, Kanyakumari District received complaints from the applicant and others against the construction of community hall and the same was forwarded to the 2nd respondent vide its letter dated 29.11.2011 for taking necessary action.

20. In additional reply affidavit dated 17th February, 2017 filed by the Director, Department of Environment, Tamil Nadu it was stated that the CRZ Notification 1991 was promulgated on 19.02.1991 and the MoEF & CC has approved the Coastal Zone Management Plan (CZMP) of Tamil Nadu State on 27.09.1996 and as per the approved plan in Sheet No.31 the built up parts of the Colachel area is classified as CRZ - II and the rest of the area is classified as CRZ - III. Accordingly, the CRZ area where the Church was constructed is categorised as CRZ III. It was further stated by the Director, Department of Environment, Tamil Nadu that the revised CZMP for Tamil Nadu State has been sent to National Coastal Zone Management Authority (NCZMA), MoEF & CC, New Delhi on 20.09.1999 wherein in respect of Sheet No.31 the following modifications have been proposed.

“Sand dunes, area around Tamirabarani River are classified as CRZ-I. Urban areas are classified as CRZ II. Other areas are classified as CRZ III.

21. The said proposal has not been approved by NCZMA. Subsequently the MoEF & CC promulgated CRZ Notification, 2011 and in the said Notification vide para 5 (ii), Government of India have instructed that the CZMP should be prepared by the State Governments through experienced scientific institutions based on the CRZ Notification, 2011 and accordingly action has been taken to prepare revised CZMP for Tamil Nadu State as per the guidelines prescribed in the CRZ Notification, 2011. Vide letter dated 17.10.2016 the work has been entrusted to National Centre for Sustainable Coastal Management (NCSCM) and after getting the draft CZMP from NCSCM it will be forwarded to NCZMA for approval through Government of Tamil Nadu duly following the procedures prescribed under CRZ Notification, 2011.

22. Finally, it was stated by the Director, Department of Environment that as per the provisions of CRZ Notification 2011 in CRZ - III area, vide para 8 III, CRZ - III, (A) (ii), reconstruction of existing authorised structures is permissible in between 0-200 meters from the HTL of the sea and the said activities require clearance from Tamil Nadu State Coastal Zone Management Authority (TNSCZMA) and no application for clearance for the project has been received by the Department of Environment.

23. One, Rev. Fr. Lucian Thomas, who was impleaded as 9th respondent as per order of this Tribunal dated 1st September, 2015, made in M.A.No.217 of 2014, has filed counter affidavit stating that he is the Parish priest of St. Mary's Church, Vallavilai Post, Kollencode. The construction work of the community hall was carried out by the Church Committee which is directly under the control of the Roman Catholic Diocese and Parish Priest has no say in the matter and the construction of the community hall

would not create any pollution or hazard or environmental damage to anybody and the community hall is situated far away from the Arabian Sea and in between sea and community hall, there is a State Highways Road running all along. The community hall is existing on the landward side of the State Highways Road and construction of such building is permissible under Annexure I of the CRZ Regulation Norms 6 (2) CRZ - II. The area is thickly populated and plenty of multi storied buildings are situated in the landward side and therefore attacking only the community hall built for the welfare of the local fishermen community, is not justified.

24. As prayed in M.A.No.43 of 2017 one, Jacruby and Benjamin were impleaded in the main application as respondent Nos. 10 and 11 respectively. However, the learned counsel appearing for respondent Nos. 10 & 11 submitted that they are not filing any reply and they are supporting the case of the applicant.

25. While the matter stood at that stage, the applicant Mr. Barnabas has filed Contempt Application No.3 of 2014 under Section 26 of the National Green Tribunal Act, 2010 to punish the respondents for having violated the orders of this Tribunal dated 25.3.2014 wherein the interim injunction order was granted restraining the respondents 4 to 7 in the main application, from proceeding with any further construction of the community hall. After hearing all the parties and after going through the reply filed by them, we have concluded that the respondent Nos. 2, 3 and 4 in the contempt application who are respondent Nos. 5, 6 and 7 respectively, in the main application, were found guilty of non-compliance of the order of this Tribunal dated 25.3.2014. It was clear that inspite of the order dated 25.3.2014 restraining them from making further construction of the

community hall, construction was not only completed but in fact it was opened on 18.8.2014. Accordingly, the respondent Nos. 5, 6 and 7 were found guilty of contempt of court and in exercise of the powers conferred under Section 26 of the NGT Act, 2010 and considering the nature and purpose of construction and gravity of the case, a sum of Rs.5,000/- penalty was imposed on each of the respondent Nos. 5, 6 and 7 and the Contempt Application No.3 of 2014 was disposed of.

26. The record placed before us indicates that the idea of construction of community hall adjacent to the Church for the benefit of local fishermen community for conducting marriages and other functions, arose as long back as in 2009 and in the year 2011 the fisher folk of Vallavilai, hamlet of Kollencode Panchayat, have contributed their hard earned money for the purpose of construction. An application was made along with building plan, before the Kollencode Town Panchayat. The Panchayat in its Resolution No.1486 dated 11.7.2011, resolved to approve the plan subject to the approval by the Tamil Nadu Pollution control Board and Town and Country Planning Authority and forwarded the proposal to the concerned Authority. The site for the proposed construction of the community hall in Survey No.578/3 Vallavilai which is quite adjacent to the Church which is in existence for a long period, has been gifted to the St. Mary's Church by the Gilnet Boat Owners' Association which is a Philanthropic Association. As contended by the private respondents it is engrossed in the Deed of Conveyance to the effect that the site shall not be used for any purpose other than constructing the Kalyanamandapam/Community hall. Otherwise, the deed is liable to be cancelled. Therefore, a decision was taken by the Church Committee which is directly under the control of the Roman Catholic Diocese, to construct the community hall for the benefit of the local

fishermen community for conducting marriages and other functions. It is clear that by the time the Tribunal issued orders on 25.3.2014, restraining further construction, the construction was in advanced stage and almost on the verge of completion. Subsequently, within a short span of about four months the Hall was inaugurated on 18.8.2014. It is also clear that the construction is in violation of CRZ Notification - 2011 and the State Coastal Zone Management Authority has rejected the proposal after examining the report of the District Coastal Zone Management Authority, Kanyakumari District dated 24.12.2011 that the site is located within 200 M from the HTL which is designated as 'No Development Zone' - CRZ – III as per the approved CZMP of Tamil Nadu State dated 27.9.1996 under Sheet No.31.

27. The contention of the private respondents 4 to 7 that as per Annexure – I '*Coastal Area Classification and Development Regulations*' to the CRZ Notification 1991 under "*Norms for Regulation of Activities*" clause 6 (2) norms fixed under CRZ – II, buildings permitted on the landward side of the existing and proposed roads/existing authorised structures shall be subject to the existing local Town and Country Planning Regulations, including the existing norms of Floor Space Index/Floor Area Ratio, is not applicable in this case though the community hall is built towards the landward side adjacent to the century old Church and is lying in between shoreline and State Highways Road and the area is populated and there are multi-storied buildings situated on the landward side. In the CZMP prepared as per the provisions of CRZ Notification 1991 the site is falling in CRZ-III and not CRZ-II. Under CRZ Notification, 1991 when the CZMP of Tamil Nadu State was approved on 27.9.1996 only the built up parts of the coastal area excluding the Church were classified as CRZ – II and the rest of the areas are classified as CRZ – III. Therefore, the area where the Church is

located, is categorised as CRZ – III. Thus the Church also presently stands in CRZ – III. This appears to be an anomaly.

28. In the approved CZMP dated 27.9.1996 prepared based on CRZ Notification 1991, with regard to Kanyakumari District in CZMP Sheet No.31 Vilavancode Taluk and Kollencode Panchayat the entire coastal stretch is designated under CRZ – III. It has been brought to our notice that a proposal for comprehensive modification of the CZMP Sheet No.31 Kollencode Panchayat, Vilavancode Taluk has been proposed by the District Level Committee and the sand dune area was proposed to be re-classified as CRZ – I from CRZ – III and Vallavilai, Vallavilaithurai (FV), Neerodi (FV) settlements built up area in Kollencode Town Panchayat are proposed to be re-classified as CRZ – II from CRZ – III. Meanwhile, CRZ Notification, 2011 was notified on 6.1.2011 and presently the revised CZMP for the State of Tamil Nadu is under preparation. As per the annexure-I “Guidelines for preparation of Coastal Zone Management Plans” under CRZ Notification, 2011 there is a provision that while preparing the CZMPs under CRZ notification 2011, the CZMPs that have been approved under the CRZ Notification, 1991 shall be compared and a justification shall be provided by the concerned CZMA in case the CZMPs prepared under CRZ notification, 2011 varies with respect to the approved CZMP prepared under CRZ notification, 1991. Thus there is a provision for reclassification of the areas if found necessary. The relevant extract of the guidelines is as follows:

III. CZMPs approved by MoEF in accordance with CRZ notification, 1991

- 1. While preparing the CZMPs under CRZ notification, 2011, the CZMPs that have been approved under the CRZ Notification, 1991 shall be compared. A justification shall be*

provided by the concerned CZMA in case the CZMPs prepared under CRZ notification, 2011 varies with respect to the approved CZMP prepared under CRZ notification, 1991.

IV. Public Views on the CZMP.

- a) The draft CZMPs prepared shall be given wide publicity and suggestions and objections received in accordance with the Environment (Protection) Act, 1986. Public hearing on the draft CZMPs shall be held at district level by the concerned CZMAs.*
- b) Based on the suggestions and objections received the CZMPs shall be revised and approval of MoEF shall be obtained.*
- c) The approved CZMP shall be put up on the website of MoEF, concerned website of the State, Union Territory CZMA and hard copy made available in the Panchayat office, District collector office and the like.*

V. Revision of Coastal Zone Management Plans

- 1. Whenever there is a doubt the concerned State or Union territory Coastal Zone Management Authority shall refer the matter to the National Centre for Sustainable Coastal Management who shall verify the CZMP based on latest satellite imagery and ground truthing.*
- 2. The rectified map would be submitted to MoEF for its record”.*

29. Therefore, it is for the State Coastal Zone Management Authority to examine the re-classification while preparing revised CZMP under the CRZ Notification, 2011 and still if the Community hall is falling in the CRZ – III ‘No Development Zone’ even after the revision of the CZMP, action may be taken to demolish the structure in accordance with law. Otherwise, if it is falling in the CRZ – II as per the reclassification in consonance with the CRZ Notification 2011, the structure may be allowed to continue.

30. With regard to the violation of local laws in constructing the hall without obtaining the building permission from the Kollencode Town Panchayat, it is for the authorities to take appropriate action as per the law applicable.

31. Subject to the above direction, the application stands closed. There is no order as to costs.



.....,JM
(Justice Dr. P. Jyothimani)

सत्यमेव जयते

.....,EM
(Shri P.S. Rao)



NGT