

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

W.P. No.23548 of 2014

and

M.P. Nos.1 and 2 of 2014

C.V.S.Freedom Vidhyalaya Nursery & Primary School
rep. by its Correspondent Sudandiramaran
Main Road, Payari, Valangaiman Taluk
Thiruvarur District

... Petitioner

Vs.

1. The District Collector
O/o District Collector
Thiruvarur, Thiruvarur District.
2. The Deputy Director of Town & Country Planning
No.33, 4th Street
Rajappa Nagar
Medical College Road
Thanjavur 613 007.
3. The President
Therkku Pattam Panchayat
Valangaiman Taluk
Thiruvarur District.
4. C.V.Shanmugam
5. Mrs.S.Shantha
6. K. Saravanan

... Respondents

(R-6 impleaded as per order dated
30/10/2014 in M.P.Nos.1 and 3 of 2014
in W.PS.23548 and 27622 of 2014)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to the impugned notice issued by the second respondent vide Na.Ka.No.191/2014 Tha.Ma dated 12/03/2014 and quash the same as illegal and consequently, forbearing the second respondent from discontinue the utility of the petitioner building situated at Survey No.321/5 and 321/6 Therkkupattam Panchayat, Valangaiman Taluk, Thiruvarur District, till the disposal of Application filed by the petitioner under Sections 47-A and 49 of the Tamil Nadu Town & Country Planning Act, 1971.

For petitioner : Mr. R. Krishnamurthy,
Senior Counsel
for M/s.G.Rajan,
R.Rajarajan and R.Dillikumar

For RR 1 to 3 : Mr. P.S.Sivashanmugasundaram,
Special Government Pleader

For RR 4 & 5 : Mr.H.Mohammed Ismail

For R6 : M/s.U.Parvathavarthini
for Mr.K.Sudalaikannu

ORDER
(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel appearing on either side, this writ petition is taken up final disposal.

2. This writ petition is filed assailing the notice dated 12th March, 2014 issued by the second respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") and further, for a direction forbearing the second respondent from discontinuing the utility of the petitioner building situated at Survey Nos.321/5 and 321/6, Therkkupattam Panchayat, Valangaiman Taluk, Thiruvarur District, till the petitioner's application filed under Sections 47-A and 49 of the Act is disposed of.

3. The learned counsel appearing for the petitioner submits that the petitioner institution is having approved plan granted by the competent authority/local body and based on the approved plan

only, the buildings were constructed. The learned counsel relies on a Division Bench judgment of this Court in The District Collector and Others vs. Danial Thangaraj and another¹ as well as the order of a learned Single Judge in Apesh Construction Ltd. vs. The Corporation of Madurai ² and an unreported judgment dated 15.06.2012 passed in W.P. No.11031 of 2011, in support of his contentions.

4. In view of the contention of the petitioner/educational institution that it has obtained the approved plan from the competent local authority and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit its objections/representation qua the impugned notice dated 12th March, 2014. It is stated by the learned counsel for the petitioner that the petitioner has already submitted representations dated 24th March 2014, 14th May 2014 and 19th June 2014.

5. In such view of the matter, the second respondent shall consider the petitioner's aforesaid representations dated 24th March 2014, 14th May 2014 and 19th June 2014 and pass appropriate orders in accordance with law and on merits, within a period of four weeks. Needless to state that each and every averment made by the petitioner in its representations is to be adverted to and a reasoned order is required to be passed. Further, it is made clear that while considering the petitioner's representations, the authorities are at liberty to examine as to whether the said local authority had competence to grant approval. Till fresh orders are passed by the second respondent as stated supra, status quo as obtained today, in respect of the building of the petitioner/educational institution, shall be maintained by both the parties.

6. This writ petition is disposed of with the above direction. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

¹ 2013 WLR 925

² 2013 (2) CTC 180

To

1. The District Collector
O/o District Collector
Thiruvavarur
Thiruvavarur District.
2. The Deputy Director of
Town & Country Planning
No.33, 4th Street
Rajappa Nagar
Medical College Road
Thanjavur 613 007.
3. The President
Therkku Pattam Panchayat
Valangaiman Taluk
Thiruvavarur District.

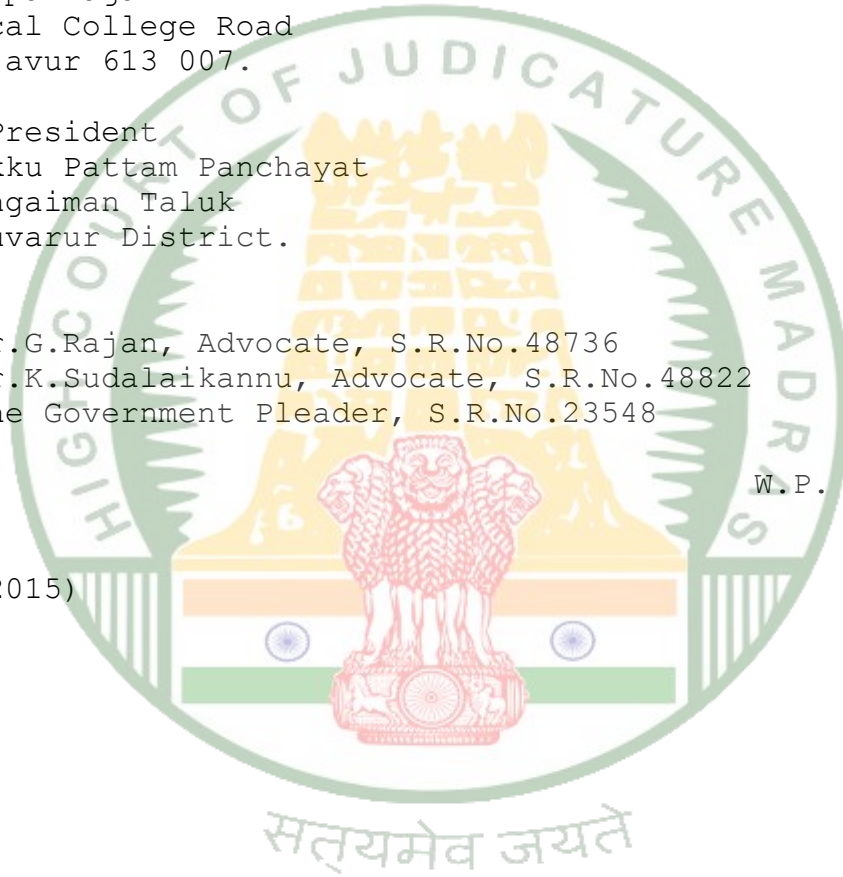
+1cc to Mr.G.Rajan, Advocate, S.R.No.48736

+1cc to Mr.K.Sudalaikannu, Advocate, S.R.No.48822

+1cc to the Government Pleader, S.R.No.23548

W.P. No.23548 of 2014

RV(CO)
CA(29/09/2015)



WEB COPY