

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.13168 of 2014

and M.P.No.1 of 2014

DAV School,
Rep. by its Secretary cum Correspondent,
Sri.S.Varadarajan ... Petitioner

-vs-

- 1.The Commissioner,
Hindu Religious & Charitable Endowment
Board, Nungambakkam High Road,
Chennai-34.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Board, Nungambakkam High Road,
Chennai-34.
- 3.The Executive Officer,
Arulmigu Nandheeswarar Thirukoil,
Opp. To Saint Thomas Railway Station,
Adambakkam, Chennai-88. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of the proceeding of the 2nd Respondent dated 26.8.2013 in Na.Ka.No. 10735/2012/A3 and quash the same as the same is arbitrary illegal unconstitutional.

For Petitioner : Mr.M.S.Krishnan, Sr. Counsel
for Mr.B.R.Shankaralingam

For Respondents : Mr.M.Maharaja,
Spl.G.P. For RR 1 and 2
: Mr.A.K.Sriram
for M/s.A.S.Kailasam & Asso./R-3

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner-institution failed to pay the lease rentals resulting in the cancellation of the lease. During the pendency of the petition, the arrears of lease have been paid and we are informed that up-to-date, the lease money has been paid and the learned counsel for the petitioner assures that the petitioner will continue to do so in future.

2.The other aspect, which is a cause for cancellation of the lease as submitted by the learned counsel for the third respondent, is that an area of 1.67 acres was leased to the petitioner for a playground, but they constructed a building. The third respondent actually filed a suit and obtained injunction against the petitioner. It is the say of the learned counsel for the third respondent, despite that, construction was made. Be that as it may, that is a matter in the suit proceedings whether the petitioner has violated the injunction order.

3.It can, however, be hardly said that if an area is made available for a playground, the school can use it for construction. The first is the non conformation of the user and the second is that the lease amount for constructed area would be different.

4.We, thus, put to learned counsel for the petitioner as to why this Court should intervene under Article 226 of the Constitution of India in view of the aforesaid conduct of the petitioner. Learned Senior Counsel for the petitioner submits that the petitioner will approach the second respondent seeking regularisation to the extent the construction exists as on date, but in case that is not granted, will remove the same within a period of three (3) months of the said decision and put it completely to be used as playground alone. If construction made or some part of it is permitted to be retained, then the concerned authorities would be free to determine the lease rental charges at enhanced rates as may be prescribed.

5.We grant one month period of time to the petitioner to file an appropriate application with the second respondent, the decision on which will be taken within a maximum period of two (2) months thereafter.

6.Writ petition, accordingly, stands disposed of. No costs.
Consequently, M.P.No.1 of 2014 stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Commissioner,
Hindu Religious & Charitable Endowment
Board, Nungambakkam High Road,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Board, Nungambakkam High Road,
Chennai-34.

+1cc to Mr.A.S. Kailasam Associates, Advocate, S.R.No.67959

pk(CO)
md(05/12/2016)

W.P.No.13168 of 2014

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