

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.27792 of 2016

and

WMP.No.23974 of 2016

Major J.Victor,  
President,  
Balar Kalvi Nilayam Avenue Residents' Association,  
No.1A, Balar Kalvi Nilayam Avenue,  
Vepery, Chennai-600 007. .. Petitioner

-vs-

1.Chennai Metropolitan Development Authority,  
rep. by its Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Building,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

2.The Corporation of Chennai,  
rep. by its Commissioner,  
Ripon Buildings, Poonamallee High Road,  
Chennai-600 003.

3.The Regional Deputy Commissioner,  
Corporation of Chennai,  
North Zone, Royapuram,  
No.62, Basin Bridge Road,  
Moolakothalam, Chennai-600 021.

4.The Director General of Police,  
Kamaraj Salai, Mylapore,  
Chennai-600 004.

5.The Director of School Education,  
DPI Compound, College Road,  
Chennai-600 006.

6.The Chief Educational Officer,  
Panagal Buildings,  
Saidapet, Chennai-600 015.

7.The Bishop,  
Baldwins Methodist Educational Conference,  
13, Convent Road, Bangalore,  
Karnataka-560 025.

8.The District Superintendent,  
Tamil Methodist Church,  
Rithordon Road,  
Vepery, Chennai-600 007.

9.Balar Kalvi Nilayam School,  
rep. by its Headmistress,  
No.7, Balar Kalvi Nilayam Avenue,  
Vepery, Chennai-600 007.

10.The Opportunity School,  
rep. by its Head Mistress,  
No.7, Balar Kalvi Nilayam Avenue,  
Vepery, Chennai-600 007.

11.Anita Matriculation Higher Secondary School,  
rep. by its Head Mistress,  
No.7, Balar Kalvi Nilayam Avenue,  
Vepery, Chennai-600 007. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents 1 to 6 to consider the representation of the petitoiner and other residents of Balar Kalvi Nilayam Avenue dated 23.10.2015 and take necessary steps forbearing the respondents 7 to 11 from renting out the school premises at No.7, Balar Kalvi Nilayam Avenue, Vepery, Chennai-600 007 for private functions.

For Petitioner : Mr.M.Ramamoorthi

For Respondents : Mr.K.Rajasrinivas for R1  
Mr.K.Soundararajan for R2 & R3  
Mr.T.N.Rajagopalan  
Spl. G.P. for R4 to R6  
Fr.Xavier Arul Raj  
Senior Counsel for  
M/s.A.Arul Mary for R7 to R11

\* \* \* \* \*

O R D E R

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

Notice, which is accepted by Mr.K.Rajasrinivas, learned counsel for respondent No.1; Mr.K.Soundararajan, learned counsel for respondent Nos.2 & 3; Mr.T.N.Rajagopalan, learned Special Government Pleader for respondent Nos.4 to 6 and Fr.Xavier Arul Raj, learned Senior Counsel for respondent Nos.7 to 11.

2. The petitioner claims to be the President of Balar Kalvi Nilayam Avenue Residents' Association, Chennai-7, which is stated to be the road leading to the premises in question of respondent Nos.7 to 11 where there exists a church, marriage hall as also the schools. It is the allegation of the petitioner that the premises of the school are being used for holding functions and marriages, which is not permissible, apart from there being high decibel noise. The petitioner also seeks to allege that at times the school is kept closed to accommodate these functions by renting out the premises. In this behalf, he has referred to the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, more particularly Rule 9(j), which reads as under:-

"(j) The premises of the school or subsidiary building appertaining to it or a playground or a vacant site belonging to the school, whether adjacent to or remote from it, shall, ordinarily, be used for the purposes of conducting the school or for functions conducted by such schools or for authorised examinations or for other purposes specifically permitted by the Chief Educational Officer."

3. The petitioner claims to have made a representation on 28.11.2010 and thereafter regularly pursued the same, as respondent Nos.7 to 11 are alleged not to be running a licensed marriage hall, community hall and Kalyana mandapam. The last representation is stated to have been made on 14.12.2015 to the first respondent alone which has not been disposed of. The prayer made is for disposal of the representation and for taking necessary steps forbearing respondent Nos.7 to 11 from renting out the school premises for private functions.

4. The learned counsel appearing for the first respondent/CMDA states that as per his instruction, the area is larger than what is meant for the school and thus, there are church activities in the remaining part of the area. The learned Senior Counsel appearing for respondent Nos.7 to 11, on instruction, states that the total area available is 23 grounds. He submits that the required area for the school is 6 grounds

and no social activities of the nature alleged take place in that area. He further undertakes on behalf of the said respondents to continue to abide by the same.

5. The aforesaid takes care of the issue of social events alleged to be held in the school.

6. The other aspect is noise pollution in the function hall and in the remaining area. Here also, the learned Senior Counsel, on instruction states that the noise level would be kept within the decibel levels permitted in pursuance to the judgment of the Hon'ble Supreme Court in Church of God (Full Gospel) in India v. K.K.R.Majestic Colony Welfare Association and others), reported in AIR 2000 SC 2773. He further submits that the provisions of the rules referred to aforesaid by the learned counsel for the petitioner are also not applicable to minority institutions as per judicial pronouncement.

7. The only other aspect which is pointed out by the learned counsel for the petitioner is that the hall is being used not only for marriages and the church, but is also being rented out to third parties, which may require permission. This aspect be looked into by the concerned respondent/authorities and respondent Nos.7 to 11 to ensure that the law of the land is complied with.

8. It is directed that within a period of three months' time from the date of the receipt of the order copy, this aspect be also concluded/settled.

9. The writ petition, accordingly, stands disposed of. No costs. Consequently, WMP.No.23974 of 2016 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

bbr  
To

1.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Building,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

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2.The Commissioner,  
Corporation of Chennai,  
Ripon Buildings, Poonamallee High Road,  
Chennai-600 003.

3.The Regional Deputy Commissioner,  
Corporation of Chennai,  
North Zone, Royapuram,  
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4.The Director General of Police,  
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6.The Chief Educational Officer,  
Panagal Buildings,  
Saidapet, Chennai-600 015.

+1 cc to Mr.K.Soundarajan Advocate sr 45265  
+1 cc to Mr.M.Ramamoorthi Advocate sr 45271  
+2 ccs to M/s.A.Arul Mary Advocate sr45532  
+1 cc to Government Pleader sr 45433

W.P.No.27792 of 2016

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