

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/3/2016

C O R A M

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.8869 of 2016

Annai Lourd Educational trust
rep. By its Trustee/Correspondent
Thiru.D.Vargease
No.1 School Road
Rajiv Gandhi Nagar
Pattabhiram
Chennai 600 072. ...Petitioner

Vs

1. The District Collector
Thiruvallur District
Thiruvallur.
2. The Tahsildar
Avadi
Chennai 600 054. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the first respondent to pass appropriate orders on the representation of the petitioner dated 9/7/2015, so as to conduct survey to earmark the land in S.No.210 and 239 given by the Revenue authorities to the School trust and for utilising as a play ground to the school children within a reasonable period.

For Petitioner ... Mr.T.Ranganathan

For respondents ... Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

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

2. Heard Mr.T.Ranganathan, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the respondents.

3. This writ petition has been filed praying to direct the first respondent, to pass appropriate order, on the representation of the petitioner, dated 9/7/2015, so as to conduct survey, to earmark the land in S.Nos.210 and 239 given by the Revenue authorities, to the School trust and for utilising as a play ground, to the school children, within a reasonable period.

4. The case of the petitioner is that the Tahsildar, Poonamallee Taluk, has permitted the School authority/Annai Lourd Higher Secondary School, to utilise the land in S.Nos.210 and 239 of Vilinjiambakkam Village, as a play ground for the school children with a condition that the said land should be handed over to the Government whenever it is required for the Government. While fencing the said play ground, the Commissioner, Avadi Municipality has objected and therefore, a suit was filed before the Principal District Munsif Court, Poonamallee. The Court passed a decree in favour of the Trust.

5. When the Commissioner again interfered in the year 2015, the Trust has approached this Court, by filing a writ petition, in W.P.No.9868 of 2015 and this Court, by an order dated 12/10/2015, granted an order of status-quo. But the Commissioner, without obeying the Court order, removed the entire fencing made by the petitioner Trust. Hence Contempt Proceeding has been initiated against the Commissioner, Avadi Municipality.

6. In the meanwhile, the Commissioner, Avadi Municipality, filed a counter affidavit, before the Principal District Munsif, Poonamallee, in E.P.No.42 of 2015 in O.S.No.165 of 2013, to the effect that he had taken over the land in S.Nos.210 and 239 of Vilinjiambakkam Village, as per the approval given by the Chennai Metropolitan Development Authority, which is ear-marked as a park area, as per the sanctioned plan. But vide letter, dated 23/12/2012, addressed to the Inspector of Police, Avadi Police Station, the Commissioner, Avadi Municipality, sought for Police assistance, to vacate the petitioner Trust School from the play ground in S.Nos.210 and 239 of Vilinjiambakkam Village. Thus, the statements made by the Commissioner, Avadi Municipality found to be contradiction to each other. Hence the petitioner had submitted a representation to the first respondent on 9/7/2015, which was duly forwarded to the Tahsildar, Poonamallee, now as Tahsildar, Avadi. Since the second respondent has not taken any action, the petitioner has come up with the present writ petition, praying for the relief as stated therein.

7. Without going into the merits of the claim of the petitioner, the second respondent is hereby directed, to consider the representation of the petitioner, dated 9/7/2015, and pass an appropriate order, on merits and in accordance with law, within a period of four weeks, from the date of receipt of a copy of this order, by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties concerned. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petition.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The District Collector
Thiruvallur District
Thiruvallur.
2. The Tahsildar
Avadi
Chennai 600 054.

+1cc to Mr.T. Ranganathan, Advocate, S.R.No.15373

+1cc to the Government Pleader, S.R.No.15742

KK(CO)
EU(30/03/2016)

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W.P.No.8869 of 2016