

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17180 of 2017
& W.M.P.No.18665 of 2017

The CSI Technical and Vocational
Training College for Women,
Electrical and Electronics Industrial Estate,
Avinasi Road, Coimbatore - 641 018,
Rep. by its Finance and
Property Administrator,
Mr.S.David Mangaladoss ... Petitioner

Vs.

1. The Director of Industries and Commerce,
Chepauk, Chennai - 600 009.
2. The District Collector,
Coimbatore.
3. The Divisional Engineer,
Highways Department,
No.1653, Trichy Road,
Coimbatore.
4. The District Revenue Officer,
Coimbatore.
5. The Tahsildhar,
Coimbatore North,
Coimbatore. .. Respondents

[R4 & R5 impleaded as per the order
of this Court dated 01.09.2017 in
WMP.No.24103 of 2017 in W.P.No.17180 of 2017]

Writ Petition filed under Article 226 of the Constitution of
India praying for the issuance of a Writ of Mandamus, forbearing
the 3rd respondent herein in any manner taking possession of the
petitioner's land and building situated at Plot No.27,
Electrical and Electronic Industrial Estate, Kalapatti Village,
Coimbatore unless by following the due process of Law.

For Petitioner : M/s.S.Bharathirajan

For Respondents: Mr.R.Venkatesh, G.A.

ORDER

The petitioner has come forward with this petition to forbear the 3rd respondent herein in any manner taking possession of the petitioner's land and building situated at Plot No.27, Electrical and Electronic Industrial Estate, Kalapatti Village, Coimbatore except by following the due process of Law.

2. The case of the petitioner is that C.S.I. Coimbatore Diocese is one of the 24 Dioceses of the Church of South India and they are running several Educational Institutions for uplifting the Society and one among them is the petitioner-institution established for providing Technical and Vocational Training to the Rural Women. In the year 1992, an Industrial Estate was established by the Government of Tamil Nadu in the name and style of Electrical and Electronic Industrial Estate in Coimbatore and Plot No.27 was allotted to the petitioner for setting up the said institution. According to the petitioner, they have paid the amount demanded in 4 instalments and a Deed of Assignment was entered on 11.02.1993. After obtaining necessary sanction / license, building was constructed and completed in the year 2005. The petitioner stated that they have been paying property tax and other amounts due to the Government without default. According to the petitioner, they are running classes for socially and economically downtrodden women mostly from the Rural areas by conducting short term training programs in Electrical and Electronic, including manufacturing and assembling of spare parts. The building was constructed for running College and Institution under the direct control and management of the CSI Coimbatore Diocese.

3. The petitioner received information that the Highways Department is taking steps to demolish the College building for constructing a road. The writ petitioner had made several representations requesting to defer the eviction proceedings. But the workers of the Highways Department came to the College with two Bull-dozers and the petitioner gave explanation stating that the property was allotted for running College and they have not received any notice from the respondents for demolition. According to the petitioner, police also forced them to vacate the institution for demolition of the building and only after inspecting the land, the Higher Police Officials questioned the act of the 3rd respondent in demolition of the College building without any prior notice.

4. According to the petitioner, the place has been allotted in the year 1992 and the Revenue Records stand in the name of the petitioner. They took possession of the premises from the year 1993 and constructions were made in the year 2005 and have

been running the college regularly. But the respondents are trying to take possession of the land without following due process of law.

5. The 3rd respondent has filed a detailed counter affidavit stating that there was an allotment of 0.2479 Acres of land in Plot No.27, subject to certain terms and conditions and the petitioner paid the due amount in 4 instalments. The land was not used for setting up of Electronic Shop. The petitioner's communication in the months of June 2017 shows that a unit for manufacturing V-Guard alarm is functioning in that premises, but the subsequent letters establish that the firm is in the process of setting up of a workshop.

6. According to the 3rd respondent, the allottee made attempt to stall the proceedings under the guise of running classes for socially and economically downtrodden women by conducting short term training programmes. According to them, the petitioner has violated the conditions as the petitioner had not used the land for the purpose for which it was allotted. The petitioner has stated that an industrial unit is set up and functioning, which was later modified that the process of setting up an industry is in progress. The allotment was made in the year 1992 and the construction of the building should be commenced within 6 months from the date of taking possession of the land, after obtaining necessary technical approval from the local authorities as well as the Chief Inspector of Factories, but same had not been done. Even though the technical approval of the building plan was issued in the year 1993, the construction of the building was taken up only in the year 2005, i.e., after a gap of 12 years. The building approval from the local body was taken up in 2005. There are violations of the terms and conditions of the Deed of Assignment as there is no such workshop for 13 years between 1992 and 2005. There was default in payment of the electricity bill and the electricity supply was disconnected and the same was restored after payment of electricity bill. Hence, it is very clear that there is no activity taking place in the petitioner's premises and that there is a breach of agreement. It is also stated that building has been constructed by violating the sanctioned plan.

7. The road in which the petitioner's land located has been sanctioned for improvements and the 3rd respondent has filed a detailed project for widening it to 4 lane as per urban norms. It is also stated that a sum of Rs.50 lakhs have been sanctioned for improvement under Road Safety Programme vide G.O.(D). No.136/HW&MP (HN2), dated 12.06.2017. The tender was finalised and the work is just to commence. At the present stage, awaiting clearance for this specific land. The petitioner's land is in hindrance to the vehicular traffic. In order to provide free

flow of traffic, a small portion of the land is urgently required for the implementation of the project. The 1st respondent had issued notice on various dates to the petitioner and the reply given is not satisfactory and the eviction of premises would be carried out by invoking due process of law.

8. Heard both sides and perused the materials available on record.

9. It is seen that there was an allotment order on 18.09.1992 and there was a Deed of Assignment but the building plan was approved only on 13.01.2005. It is further stated that it is not a regular vocational College for women. It is only allotted for setting up of Electronic workshop. Though the petitioner has been running the institution in the name and style of the CSI Technical and Vocational Training College for Women, training is imparted to the women in the process of making electronic items. Though they have collected materials from the third parties and imparting training, there is no sale of Electronic items or any other goods that have come up based on the training. The petitioner-institution has been paying property tax and other taxes regularly.

10. The planning permission was granted in the year 2005 and the building has been constructed. It is no doubt true that the respondent ought to have commenced construction within six months from the date of taking possession of the land. They should have taken approval from the local authorities as well as Chief Inspector of Factories before the construction. Failure to implement the programme will lead to cancellation without any further notice. It is also stated that failure to comply with any of the condition will result in cancellation of allotment of the land without further notice, as per clauses 8, 11 and 13 of the allotment order dated 18.09.1992.

11. Admittedly, without getting technical approval of the building plan, the petitioner would not have applied and obtained permission. It is clear that the petitioner has been permitted to construct the building, which clearly shows that the respondents have condoned the delay. Respondents have slept over the matter, for which the petitioner cannot be blamed.

12. It is stated that the petitioner is running the College by not adhering to the conditions laid down in the allotment order. While allotting the land, a cursory glance of paragraph 1 of the allotment order is very clear that the land has been allotted for setting up of Electronic Workshop. It is also no doubt true that for several show cause notices of the 1st respondent, the petitioner has been postponing without giving proper reply.

13. It has been stated that the technical approval has been granted as early as in 1993 and the building has been constructed only in 2005, ie., the building has not been constructed within 6 months. It is rightly pointed out by the petitioner, that it is not a regular College, but they are imparting training. There are violations of Deed of Assignment as referred to in clause 3 (a) of the assignment, or any other condition mentioned therein and clause 3(a) is extracted below:

"3. a) A strip of land of not less than 4.5720 metres in width shall be left open to the sky on the periphery of the said plot and no building shall be constructed within a distance of 9.14440 metres from the 36.5760 metres and 30.4800 metres roads shown in the aforesaid layout plan."

It is open to cancel the assignment and take possession of the land.

14. In the counter affidavit of the 3rd respondent, it has been stated that in paragraph 7 of the counter affidavit, as follows:

"7. Eventhough, the technical approval of the building plan was issued by the Director-1st respondent in 1993, the construction of the building was taken up in 2005 only after a phenomenal gap of 12 years. The building approval from local body was taken up only in 2005 and the same is mentioned in the affidavit para. However, the convener made it a point that the building was constructed in 2002 and the same is in use. By analysing the above, it is interred that

- a) There is a violation of the terms and conditions of the deed of assignment that the building has to be constructed within 6 months after taking possession. Which means that the building should had been constructed in 1993 itself. But the firm applied and approval got only in 2005.
- b) No such workshop was in place for the first 13 years after taking (1992-2005) possession and it was major fault.
- c) During the subsequent period also, no such continuous activity was carried out. It is evident from the records of Electricity Board consumption bill for the year 2012-2017. It revealed that there was disconnection of EB 2/3 times and reconnection was made. The consumption quantity for this workshop was also very less and only minimum quantity was utilized. Hence, it is proved beyond doubt that no such activity was undertaken by the company.
- d) It is conspicuous that there is breach of agreement conditions and it is illegal/ unlawful

on the part of the petitioner to occupy the premises under the name of training institute."

15. In view of the counter filed by the 3rd respondent / Divisional Engineer, if there are any violations by the petitioner with regard to the construction, and if distance between the building and compound wall has not been maintained, which affects the road to be laid and that the building has not come up within the time stipulated in the allotment order, are all matters to be considered by the respondents and the order be passed within one month from the date of receipt of a copy of this order. It is needless to state that there shall be hearing to the petitioner in person, who can also submit his representation, if any in writing. Till such time the decision is taken, the petitioner shall not be disturbed of their possession and enjoyment of the property in question.

16. With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pvs
To

1. The Director of Industries and Commerce,
Chepauk, Chennai - 600 009.
2. The District Collector,
Coimbatore.
3. The Divisional Engineer,
Highways Department,
No.1653, Trichy Road, Coimbatore.
4. The District Revenue Officer,
Coimbatore.
5. The Tahsildhar,
Coimbatore North, Coimbatore.

+ 2 ccs to Mr.S. Bharathirajan, Advocate SR.78346
+ 1 cc to MR. Government Pleader Sr.79004

W.P.No.17180 of 2017

KAN(CO)
EU(19/12/2017)