

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos. 9521 of 2015 & 5463 of 2016
W.M.P.No.4802 of 2016 in W.P. No.5463 of 2016 &
M.P.No.1 of 2015 in W.P.No.9521 of 2015

Tiruppur School for Deaf
Rep by its Founder/Secretary
Murugasamy, S/o. Kolanthaisamy
No.159/2, Murugampalayam
Iduvam Palayam Post
Tiruppur 641 687

... Petitioner in W.P.No.5463/2016

A.Govindaraj

... Petitioner in W.P.No.9521/2015

v.

1 The Station House Officer
Tamil Nadu Fire & Rescue Department Tirupur
South Tirupur Tirupur District

2 Govindaraj .. Respondents in W.P.No.5463/2016

1 The District Collector
Tirupur District, Tirupur-641604.

2 The Tashildhar
Office of the South Tashildhar
Pazhavanjipalayam Village
Tirupur District- 641608.

3 Murugasamy .. Respondents in W.P.No.9521/2015

W.P.No.5463/2016 filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified mandamus, calling for the records on the file of the 1st respondent herein in Na. Ka. No. 674/2015 dt 1.10.2015 quash the same and direct the 1st respondent herein to grant renewal of the fire and safety certificate to the writ petitioner

W.P.No.9521/2015 filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, directing the 1st and 2nd respondents to consider the petitioner representation

dated 10.3.2015 thereby directing the 1st and 2nd respondents not to renew or extend the Public Building Licence granted for the period 11.01.2013 to 31.03.2015 (vide No.36/2013, dated 18.1.2013) in favour of the 3rd respondent.

For Petitioner in : Mr.V.Lakshminarayanan
W.P.No. 5463/2016 for M/s.M.Easan

For Petitioner in : Mr.S.Vediappan
W.P.No.9521/2015

For Respondents in : Mr.A.N.Thambidurai
W.P.No.5463/2016 Spl. Govt. Pleader - for R1

For Respondents in : Mr.A.N.Thambidurai
W.P.No.9521/2015 Spl. Govt. Pleader - for R1 & R2

Mr.V.Lakshminarayanan
for M/s.M.Easan - for R3

COMMON ORDER

The petitioner has filed the Writ Petition in W.P.No.5463/2016 to issue a writ of certiorarified mandamus, to call for the records on the file of the 1st respondent dated 1.10.2015, quash the same and direct the 1st respondent to grant renewal of the fire and safety certificate to the writ petitioner .

2. W.P.No.9521/2015 has been filed by the 2nd respondent in the W.P.No.5463/2016 to issue a writ of mandamus, directing the respondents 1 and 2 to consider his representation dated 10.3.2015 thereby directing the respondents 1 and 2 not to renew or extend the Public Building Licence granted for the period 11.01.2013 to 31.03.2015 in favour of the 3rd respondent.

3.1 The petitioner's school being run by one Murugasamy, who is the Founder/Secretary of the said school. The said Murugasamy is the physically challenged person, having been born deaf and dumb and this school is run in a land, which according to the petitioner belonged to their family and his parents had orally gifted the property to him in the year 1997.

3.2 According to the petitioner, the land measures 33 cents. Thereafter, he had demolished the old structure and reconstructed the building after due approval from the concerned authorities. He applied for the temporary recognition in the year 1977. The temporary recognition was also granted by the authority for 3 years for the period from 1999 to 2002 and the same has been extended periodically.

3.3. While so, petitioner's mother executed a registered settlement deed in his favour for the property measuring 20 cents. Since the 2nd respondent, who is the brother-in-law of the said Murugasamy, had claimed right in respect of the property measuring an extent of 10 cents out of 33 cents, he filed a suit in O.S.No.448 of 2009 on the file of Subordinate Court, Tirupur for declaration and permanent injunction. In turn, the 2nd respondent also filed a suit in O.S.No.414 of 2009 before the same court for delivery of possession. Both the suits are pending. Since the civil suits are pending between the parties before the Trial Court, the 1st respondent refused to issue fire and safety certificate, which is required by the petitioner for running the school.

4. The learned counsel appearing for the petitioner submitted that fire and safety certificate is being renewed periodically till 2015. The writ petition was filed in the year 2016 for the reason that the 1st respondent refused to issue the certificate finding that civil suits are pending between the parties.

5. In the impugned order dated 01.10.2015, the 1st respondent has stated that in view of the pendency of the writ petition in W.P.Nos.13824 of 2012 and 13825 of 2012 and also the suits in O.S.Nos.414 of 2009 and 448 of 2009 on the file of Sub Court, Tirupur, the certificate cannot be issued.

6. Mere pendency of the suits cannot be put against the petitioner for obtaining the fire and safety certificate. When the petitioner is running the school for several years and that the 1st respondent also renewed the certificate periodically till 2015, I am of the view that mere pendency of the suits will not stand in the way of petitioner getting the certificate from the 1st respondent.

7. It is also brought to the notice of this court that this court, by order dated 01.07.2010, had allowed the writ petition in W.P.No.13824 of 2012. In the event of the 2nd respondent succeeding in the suit he can bring it to the notice of the authorities that the petitioner is not the owner of the property and in such a case, the 1st respondent shall decide the issue afresh. At present, there is no decree granted in favour of the 2nd respondent.

8. In these circumstances, I am of the view that the impugned order passed by the 1st respondent is liable to be quashed. Accordingly, the same is quashed. The 1st respondent is directed to grant renewal of the fire and safety certificate to the petitioner's school. However, I make it clear that in the event of 2nd respondent succeeding in the suit, the same may

be brought to the notice of the 1st respondent and in such circumstances, the 1st respondent can pass suitable orders, taking into consideration the decree passed by the Trial Court.

9. So far as the writ petition in W.P.No.9521/2015 is concerned, the petitioner seeks to issue a writ of mandamus, directing the respondents 1 and 2 to consider his representation dated 10.3.2015 and not to renew or extend the Public Building Licence granted for the period 11.01.2013 to 31.03.2015 in favour of the 3rd respondent-Founder/Secretary of the school.

10. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the 2nd respondent may be directed to consider the petitioner's representation dated 10.03.2015, in accordance with law, within a time frame.

11. In view of the submissions made by the learned counsel on either side and also taking into consideration the limited prayer sought for in the writ petition, without expressing any opinion with regard to the merits of the case, I direct the 2nd respondent to consider the petitioner's representation dated 10.03.2015 and pass orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With these observations, the writ petition in W.P. No.5463 of 2016 stands allowed and the writ petition in W.P.No.9521 of 2015 stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

Rj

To

1 The Station House Officer
Tamil Nadu Fire & Rescue Department, Tirupur,
South Tirupur, Tirupur District

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2 The District Collector
Tirupur District, Tirupur-641604.

3 The Tashildhar
Office of the South Tashildhar
Pazhavanjipalayam Village
Tirupur District- 641608.

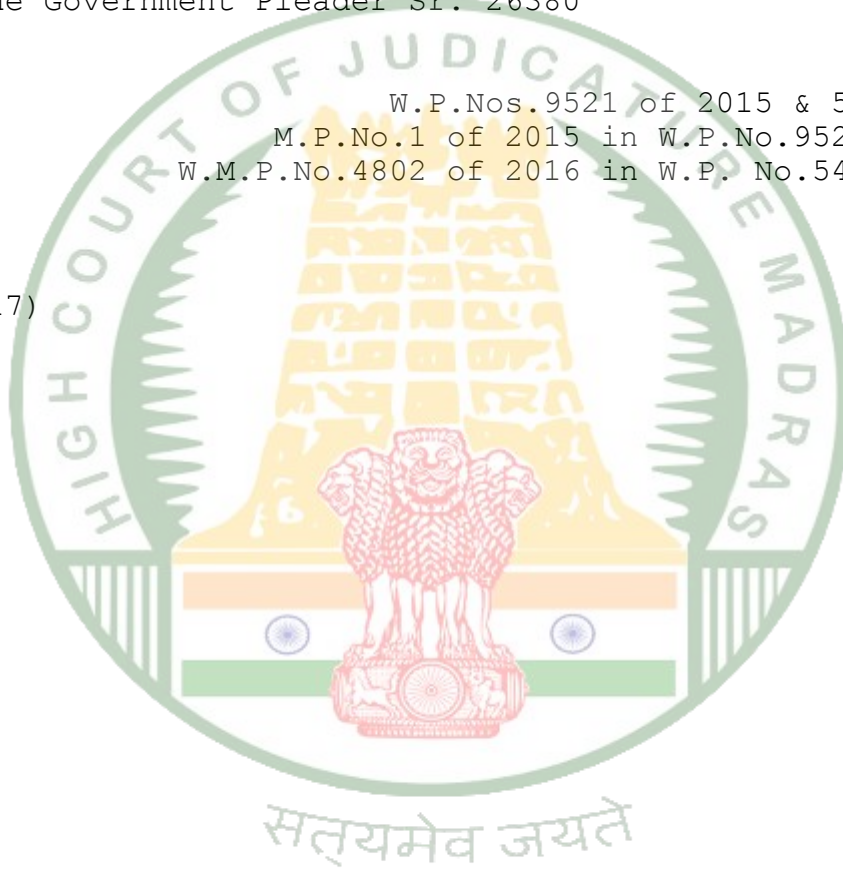
+1cc to Mr.S. Vediappan, Advocate Sr. 26070

+1cc to M/S. Va Vu Si Vazhakagam, Advocate Sr. 26013

+1cc to the Government Pleader Sr. 26380

W.P.Nos.9521 of 2015 & 5463 of 2016
M.P.No.1 of 2015 in W.P.No.9521 of 2015 &
W.M.P.No.4802 of 2016 in W.P. No.5463 of 2016

VD(CO)
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