



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.16417 of 2017

Ferry G Fernandez,
S/o.Gilbert Fernandez,
Chairman of Holy Angels International School,
Namabali, Nithiravilai,
Residing at E.P.Thurai, Thothur,
Kanyakumari District.

... Petitioner

Vs.

1. The Superintendent of Police,
Kanyakumari District,
at Nagercoil.
2. The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
3. The Sub Divisional Magistrate cum RDO,
Padmanabapuram,
Kanyakumari District.

4. Joseph Sunny

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 & 2 to implement the order passed in ROC No.A2/958/2017, dated 23.08.2017 on the file of the 3rd respondent herein and direct the 2nd respondent to provide protection to run the petitioner's school namely Holy Angels International School.

For Petitioner : Mr.S.Suresh Kumar
For Respondents : Mr.S.Sathish Kumar
1 to 3 Additional Government Pleader.
For Respondents 4 : Mr.N.Dilip Kumar

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents 1 and 2 to implement the order of the passed in R.O.C.No.A2/958/2017, dated 23.08.2017 on the file of the third respondent herein and to direct the second respondent to



provide protection to run the petitioner's school namely Holy Angels International School.

2. Heard the learned counsel appearing for the petitioner, Mr.S.Sadhish Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.N.Dilip Kumar, learned counsel appearing for the respondent No.4. By consent of both parties, this Writ Petition is taken up for final disposal.

3. The petitioner relies upon the proceedings of the third respondent dated 20.08.2017. By the said proceedings, the third respondent has also expressed the opinion that the school is owned by the Trust and the same is in the possession of the Trust. It is further observed that the dispute among the trustees in managing the properties of the Trust or the school has to be sorted out in a competent Civil Forum. Therefore, leaving it open to the parties to file petition before the Civil Court of original jurisdiction under Section 34 of the Indian Trust Act with regard to the management of trust property a direction was issued to the police department to take appropriate criminal action against any individuals whoever indulge in activities which lead to breach of peace or disturbance to public tranquillity in respect of management of school. Relying upon that portion of the order, alleging that the contesting respondent in the writ petition is indulging in activities which may lead to breach of peace, the petitioner has approached this Court with the above prayer.

4. The learned counsel appearing for the petitioner submitted that the fourth respondent was expelled from the Board of Trustees. However, the learned counsel appearing for the fourth respondent submitted that the authority of such expulsion is disputed and that the fourth respondent does not admit the ouster of fourth respondent from the trusteeship.

5. From the contention of the learned counsel on both sides, this Court is of the clear view that there is a dispute with regard to the administration of the school. In other words, the physical control and administration of the school has not been resolved so far by any forum including the educational authorities. In such circumstances, this Court, without going into the merits of the contentions of both sides, direct them to approach the Civil Court to get appropriate relief. Hence, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

1. The Superintendent of Police,
Kanyakumari District,
at Nagercoil.

2. The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.

3. The Sub Divisional Magistrate cum RDO,
Padmanabapuram,
Kanyakumari District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76092
+ 1 CC TO Mr.S.SURESH KUMAR, ADVOCATE IN SR No. 75941
+ 1 CC TO Mr.N.DILIPKUMAR, ADVOCATE IN SR No. 75862

SRM

TE/SKN-RSK/SAR-III : 05/09/2017 : 3P/7C

W.P. (MD) No.16417 of 2017
31.08.2017