

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.13098 OF 2018
AND WMP NO.15397 OF 2018

Brilliant Matriculation Higher Secondary School
Pattukottai Road,
Muthupettai,
Tiruvarur District.
Rep. by its Trustee and Additional Secretary
M.Amanullah

... Petitioner

Versus

- 1.The District Collector
Tiruvarur District.
- 2.District Revenue Officer
Tiruvarur District.
- 3.Executive Officer
Selection Grade Town Panchayat
Muthupettai, Tiruvarur District.
- 4.The Revenue Divisional Officer
Mannarkudi, Tiruvarur District.
- 5.Tahsildar
Thiruthuraipoondi Taluk,
Tiruvarur District.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings mentioned in the notice Na.Ka.No.176/2018/A1 dated 19.04.2018 of the third respondent and to quash the same and consequently to direct the respondents not to demolish any portion of the eastern side of the School building in S.No.222/5 in Thuraikadu Village, Thiruthuraipoondi Taluk, Tiruvarur District.

For Petitioner : Mr.Sivakumar
For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

(ORDER OF THE COURT WAS MADE BY M.SATHYANARAYANAN, J.)

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader, accepts notice on behalf of the respondents.

2. The petitioner claims that one K.A.Allahpitchai Rowther Trust is running a School under the name and style of Brilliant Matriculation Higher Secondary School in Muthupettai from 1986 onwards and it caters to the need of students hailing from poor and downtrodden community.

3. The grievance expressed by the petitioner is that all of a sudden, the third respondent has issued the impugned notice dated 19.04.2018 alleging that the land classified as "water body / water source poramboke" in Thuraikadu Village, S.No.219/4 and S.No.223 have been encroached and therefore, called upon the petitioner to remove the same, within a period of two days from the date of receipt of the said notice, failing which, the encroachment will be removed on 27.04.2018 and cost for the same will be recovered from them. Challenging the legality of the said notice, the petitioner came forward to file this writ petition.

4. Mr.Sivakumar, learned counsel appearing for the petitioner has invited attention of this Court to the typed-set of documents and submitted that before calling upon the petitioner to remove the encroachment, no opportunity or notice or whatsoever have been afforded to them and that apart, the provision of law under which, action has been taken was also not indicated and therefore, prays for interference.

5. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader, would submit that action would be taken, strictly in accordance with law, before removing the encroachment.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the provision of law, has not been indicated, in the impugned notice and that apart, the petitioner has been granted just two days time to vacate from the land in question. In the considered opinion of this Court, it does not

amount to following the due process of law and therefore, the impugned notice warrants interference.

8. In the result, the writ petition is partly allowed and the impugned notice dated 19.04.2018 of the third respondent is quashed. The concerned official respondent is at liberty to invoke the relevant provision of law for removal of encroachment said to have been caused by the petitioner's Trust and such exercise shall be carried out within a period of (10) ten weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

9. The Registry is directed to mark a copy of this order to the Assistant Engineer, Public Works Department, Mannargudi, Tiruvarur District.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

TK

To

1.The District Collector
Tiruvarur District.

2.District Revenue Officer
Tiruvarur District.

3.Executive Officer
Selection Grade Town Panchayat
Muthupettai, Tiruvarur District.

4.The Revenue Divisional Officer
Mannarkudi, Tiruvarur District.

5.Tahsildar
Thiruthuraipoondi Taluk, Tiruvarur District.

6.The Assistant Engineer, PWD, Mannargudi,
Tiruvarur.

+1cc to Mr.S.Sivakumar, Advocate in sr.no.37069

+1cc to Government Pleader, in sr.no.37926

W.P.NO.13098 OF 2018

CS/28/06/18