



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
28.03.2019

Delivered on
10.04.2019

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CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Review Application No.177 of 2018

Sakethanath & Co.,
rep. By its Partner,
M.Leema Rose

... petitioner

versus

1.The Chief Postmaster General,
Tamil Nadu Circle, Chennai

2.The Postmaster General,
Western Region,
Coimbatore 641 002

3.The Senior Superintendent of Post office,
Coimbatore Division,
Coimbatore

... respondents

Petition filed to review the order passed in W.A.No.303 of 2013 dated 20.02.2018.

Prayer in WA 303/13 : Writ appeal filed under clause 15 of Letter Patent against the order dated 30/07/2012 made in Review Application No.67/2012 in WP 14690/2009.

Prayer in WP 14690/2009 : Petition filed under Article 226 of the Constitution of India praying the issue a writ of mandamus directing the respondent to come forward with an acceptance for the alternative post office building by taking cognizance of the Memorandum of Agreement dtd 25/0/1989 with regard to change of place from lotion in TS No. 34-2B-4 TS No. 34- 2B -5 Gandhipuam at the rear side of Lakshmi Complex croscut road coimbatore to the proposed alternative site with the post office building to be constructed as per the specification of the department of post by demlshing the existing structure at swarnambika layout near cross cut road coimbatore



For petitioner : Mr.L.Chandrakumar

For respondent : Mr.V.Balasubramanian

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O R D E R

K.K.SASIDHARAN, J.

This Court, taking into account the memorandum of agreement executed between the applicant and the respondents dated 25 October 1989 and the dispute that arose subsequently in connection with the construction of the building, due to the change of site offered by the applicant, passed an order with the consent of both the parties, directing the applicant to allot a portion of the land acquired earlier and situated at Anupparpalayam, Cross Cut Road, Coimbatore for construction of the building to house the Post Office complex and to complete the construction of the building in a time bound manner. Such an order was passed taking into account the fact that the postal department sacrificed the public interest by agreeing to cancel the proceedings initiated for acquisition under the Land Acquisition Act, 1894 and agreed to take a constructed building with an area of 4800 sq.ft. from the applicant. Even though Notification for acquisition under Section 4(1) of the Act was issued on 3 February 1982, the fact remains that the Postal Department is not having its own building at Coimbatore even today and litigation is coming one after another.

2. The review petition is filed by taking up the same grounds which were taken earlier and rejected by this Court. The contentions taken in the earlier round of litigation are reiterated in the present review petition.

3. This Court taking into account the background facts, issued the following directions, after discussing the matter at length with the learned counsel for the applicant and the learned Standing counsel for the respondents. The consent of the parties is reflected in paragraph 15 of the judgment dated 20 February 2018. It reads thus :-

15. The Postal Department is prepared to accept the building in case it is constructed strictly in accordance with the agreement dated 25 October 1989. The appellant is agreeable for such a course. We are therefore of the view that appropriate direction should be issued in public interest, taking into account the memo of agreement dated 25 October 1989 and the willingness shown by the appellant to construct a new building by making use of a portion of the acquired land. We therefore



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issue the following directions.

4. The following directions were issued to give a quietus to the entire matter.

16 (i) The appellant shall allot a portion of the land acquired earlier and situated at Anupparpalayam, Cross Cut Road, Coimbatore, for construction of Post Office Complex.

ii) The land required for construction of a building with a plinth area of 4800 sq.ft with set back on all the sides, approach road and parking mail motor vehicles and other vehicles out of the acquired land will be identified by the Post Master General, Coimbatore along with the Engineer from the Central Public Works Department or any of the Engineers of their choice.

iii) The plan for the building, taking into account the need of the Postal Department and as indicated in Clause No.3 of the agreement dated 25 October 1989 should be drawn by the Post Master General in accordance with the applicable building regulations.

iv) The plan so drawn shall be presented by the appellant to the appropriate planning authority. The appellant and the Postal Department shall take follow up action with the Planning Authority.

v) The appellant shall commence the construction immediately after obtaining planning permission and complete it within a period of one year.

vi) The building with all the amenities as per the specification of the Postal Department shall be delivered to the Department within one year from the date of sanctioning the building plan.

vii) The lease term and rent should be as per the Memorandum of Agreement dated 25 October 1989.

viii) The appellant shall abide by the terms and conditions of the agreement dated 25 October 1989 in its entirety.

ix) In case, the appellant fails to comply with the above direction or delay the matter, liberty is given to the Postal



Department to proceed with the acquisition for acquiring 1 acre and 11300 sq.ft. as indicated in the notification dated 3 February 1982.

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5. There is no question of reviewing the judgment passed with the consent of the parties. The order was passed in the best interest of the applicant and the Postal Department. The necessity to complete the construction of the building for post office at Coimbatore was also a reason for the earlier resolution of the dispute in the manner indicated in paragraph 16 of the judgment. We are therefore of the view that there is no ground made out for review of the judgment.

6. This Court directed the applicant to commence construction within a period of one year. In view of the initiation of the review application and the pendency of the matter before this Court, time limit of one year would commence from the date of this order.

7. The review application is disposed of as indicated above. No costs.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

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To

1.The Chief Postmaster General,
Tamil Nadu Circle, Chennai

2.The Postmaster General,
Western Region,
Coimbatore 641 002

3.The Senior Superintendent of Post office,
Coimbatore Division,
Coimbatore

+1cc to Mr.S.Saravanan, Advocate SR.No.36042

Review Appl. No.177 of 201

NRL (CO)
GMY (22/05/2019)