

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018
CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.28398 of 2013

Subbiah Education Trust,
Rep. by its Chairman,
K.S.Krishnamurthy.

...Petitioner

Vs.

1. The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai - 600 002.

2. The Deputy Director of Town & Country Planning,
Salem, Salem Region,
No.6, Sannadhi Street,
Subramanya Nagar,
Sooramangalam, Salem - 6.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to forthwith process the application of the petitioner along with building plan dated 17.12.2012 and re-presented on 07.10.2013 and to grant building permission to the petitioner without insisting gift of 10% Open Space Reservation area in favour of the local panchayat.

For Petitioner : M/s.K.Selvaraj

For Respondent : Mr.V.Shanmuga Sundar, Spl.G.P.

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

2. The petitioner-Trust has approached this Court, seeking a direction to the respondents to forthwith process their application dated 17.12.2012.

3. According to the petitioner, the Trust has established 'Jairupaa College of Engineering' in Kathankanni Village, Kangayam Taluk, Tirupur District. The Trust had applied for planning permission with the respondents for construction of buildings. The first respondent granted technical approval on

04.07.2011, but it was returned by the second respondent on the ground that the petitioner did not execute a gift deed in respect of OSR land in favour of the local body.

4. Mr.K.Selvaraj, the learned counsel for the petitioner submitted that G.O.Ms.No.161, Housing and Urban Development [UD4 (3)], Department, dated 26.06.2013, grants exemption to Educational Institutions from executing a gift deed, in favour of the local body and it is further submitted that the second respondent returned the application, without providing any opportunity to the petitioner.

5. Mr.V.Shanmuga Sundar, learned Special Government Pleader based on the counter affidavit filed by the respondents contended that the first respondent had granted technical approval in the year 2011, however, the G.O.Ms.No.161, dated 26.06.2013 will not have any retrospective effect. It is further submitted that the petitioner has not given undertaking that the OSR land will be kept open to sky. It is further submitted that if the application is re-submitted, the second respondent would consider the same in accordance with law.

6. The learned counsel for the petitioner submitted that the application has already been re-submitted and they are ready to give an undertaking affidavit to the second respondent with regard to the OSR land.

7. In the light of the above facts and considering the submissions of the learned counsels on either side, this Court, directs the petitioner to re-submit the application along with an undertaking affidavit, if not already re-submitted, within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the second respondent shall consider the same, in the light of the G.O.Ms.No.161, Housing and Urban Development [UD4(3)], Department, dated 26.06.2013 and pass appropriate orders on merits and in accordance with law, after providing an opportunity of hearing to the petitioner, within a period of six weeks therefrom.

8. With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar (CO)

//True Copy//

Sub Assistant Registrar

pvs

To

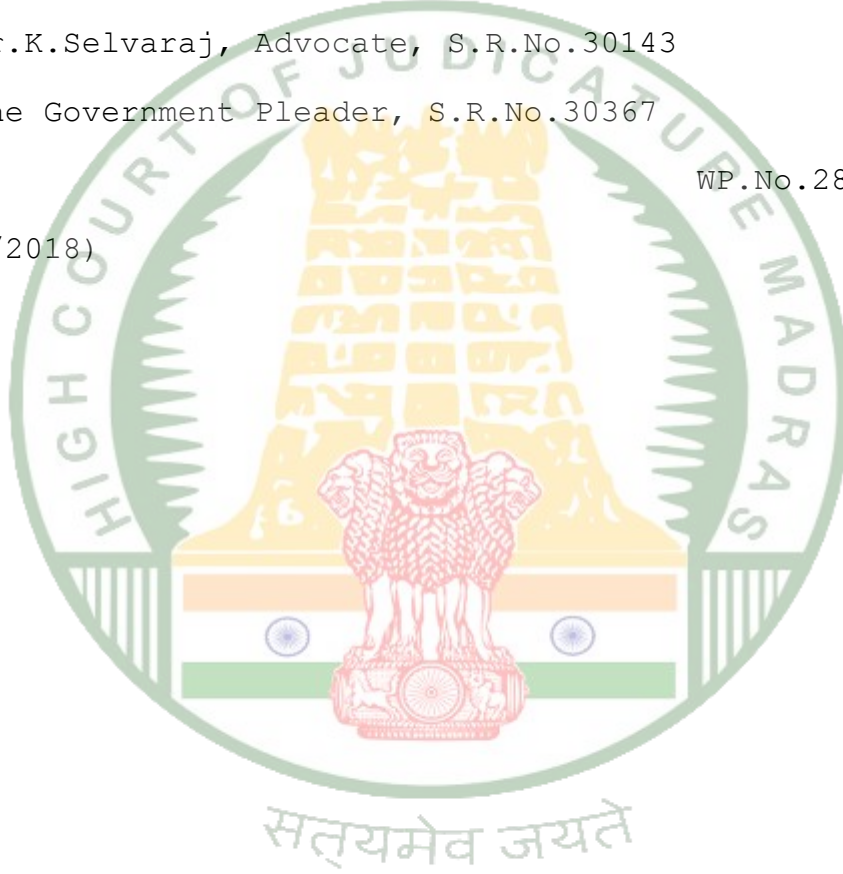
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+1cc to Mr.K.Selvaraj, Advocate, S.R.No.30143

+1cc to the Government Pleader, S.R.No.30367

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RRK(27/04/2018)



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