

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Contempt Petition No.705 of 2019

1.Ajay Francis Loyola
2.Prof.Dr.Vadanda Zachariah
3.N.Sivanandasankar
4.M.Palaniappan
5.D.R.Shete

.... Petitioners
Vs

1.Dr.A.K.Viswanathan, I.P.S.,
The Commissioner of Police,
No.132, Commissioner Office Building,
KVK Sampath Road,
Vepery, Periyamet,
Chennai 600 007.

2.Mr.S.Rajendran I.P.S.,
The Deputy Commissioner of Police, L&O,
Poonamallee High Road, Kilpauk,
Chennai 600 010.

3.Mr.G.Harikumar I.P.S.,
The Assistant Commissioner of Police, L&O,
No.18 Police Quarter, सत्यमेव जयते
Poonamallee High Road, Kilpauk,
Chennai 600 010.

4.Mr.S.R.G.Dhayal,
The Inspector of Police,
K6, Kilpauk Police Station,
Chennai.

5.Mr.Mark Carron
The Principal of St. Georges Anglo Indian School and
Orphanage,
738, EVR Road,
New Bupathy Nagar,
Shenoy Nagar,
Chennai 600 030.

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents herein for contempt for willfully disobeying the order of this Court dated 06.09.2018 made in W.M.P.No.21682 of 2018 in W.P.No.18373 of 2018.

For Petitioners : Ms.R.Shase
for Mr.M.Guruprasad
For R1 to R4 : Mrs.P.Kritika Kamal,
Govt. Advocate (Crl. Side)
For R5 : Mr.V.Prakash, Sr. Counsel
for Mr.Adrian D.Rozario

ORDER

This petition has been filed alleging that the order of this Court dated 06.09.2018 made in W.M.P.No.21682 of 2018 in W.P.No.18373 of 2018 has not been complied with.

2.Before adverting to the issue in this Contempt Petition, it may be necessary to state in brief the contentious issues raised in the Writ Petition. W.P.No.18373 of 2018 has been filed by the residents of Ramanathan Street in Kilpauk alleging that St. George's Anglo-Indian Higher Secondary School and Orphanage (for brevity "the school") located at the western end of

<https://hcservices.ecourts.gov.in/hcservices/>

Ramanathan Street are using their playground for commercial

exploitation thereby, causing great nuisance to the residents, to abate which, proceedings under Section 133 Cr.P.C. should be initiated. In W.M.P.No.21682 of 2018 in W.P.No.18373 of 2018, the petitioners sought the following interim relief :

"To grant ad-interim injunction restraining the 5th respondent/St. Georges School Anglo Indian Higher Secondary School and Orphanage from carrying out any business activities/commercial activities in its playground/vacant site (in W.M.P.No.21682/18) pending disposal of the writ petition 18373/18 respectively."

This Court ordered notice to the school, pursuant to which, counsel entered appearance. During the hearings, this Court was convinced that the petitioners were not targeting the school for communal reasons and that they were genuinely seeking judicial intervention to mitigate the nuisance suffered by them. In fact, out of five petitioners, two of them are Christians themselves. Their main grievance was that, whenever the school permits its premises for mass activities like book fair, religious congregation, etc. people use Ramanathan Street as parking lot.

3.Be that as it may, on 06.09.2018, this Court passed an order of interim injunction as prayed for in

W.M.P.No.21682 of 2018. Alleging that the school have
<https://hcservices.ecourts.gov.in/hcservices/>

violated the order of interim injunction, this Contempt Petition has been filed by the writ petitioners.

4. On account of change in roster, the Writ Petition in W.P.No.18373 of 2018, is not before this Court and therefore, this Court is now left with to decide the Contempt Petition at hand.

5. In the affidavit filed by the petitioners in support of the Contempt Petition, they have averred that the school have violated the order of interim injunction passed by this Court on 06.09.2018, by permitting commercial and business activities in their playground, on account of which, there is a huge vehicular movement from and into the school through Ramanathan Street, though access to the school is only from Poonamallee High Road on the Southern side.

6. Refuting the contention, Mark Donald Carron, Principal/Head Master, St. Georges Anglo Indian Higher Secondary School and Orphanage, has filed a counter affidavit dated 15.07.2019, wherein, in paragraph No.7, he has stated as follows :

"7. With regard to the averments in paragraphs 4 & 5 of the affidavit, the same are hereby denied. In particular, after the grant of injunction, the open school playground has not

been let out for any commercial purpose on every weekend/holidays as alleged. In fact, even prior to the injunction, we used to allow Christian groups for prayers by charging a fee for the cost involved. There is a chapel in the site meant for prayers where Christian groups come and pray and the open ground is not used for the purpose. All the more, the gate of the school opening into the Ramanathan Street is used only for children to access the school and for leaving the school. There is no violation of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, as claimed by the petitioners; much less the Code of Regulations for Anglo-Indian Schools which applies to the school in question. As regards the book fair at Chennai, the fair was originally in the premises of the Government Arts College. In recent times, prior to the grant of injunction, such fair was held in the school and a book fair is a literary function associated with education. However, in view of the injunction granted, we have not permitted the book fair to be held in the school ground and the fair for the year 2019 took place in the YMCA Grounds at Royapettah. It would be clear from the above that the claims of the petitioners to the contrary are not true."

7.R.Vinayagam, Inspector of Police, K-6, T.P.Chatram Police Station, Chennai-10, has filed a counter affidavit dated 29.07.2019, wherein, in paragraph No.6, he has stated as follows :

<https://hcservices.ecourts.gov.in/hcservices/>

"6.I respectfully submit that we did not show

any disrespect to this Hon'ble Court order as alleged by the petition herein and this respondent denies the allegation that no such parking facility is provided for parking the cars as alleged by the petitioner herein infact there was no restaurants in the said area and moreover the gate which is leading to Ramanathan Street had been permanently locked and kept under lock and key."

8. Thus, from a reading of the aforesaid, it appears that, after the order of interim injunction passed by this Court, the school has not been using its playground for any commercial activity as alleged by the petitioners and that the access to the school from Ramanathan Street has been closed and that only school children are permitted ingress and egress via Ramanathan Street. Further, a perusal of the counter affidavit of Mark Donald Carron does give an impression that the school is also alive to the travails of the residents of Ramanathan Street and that they would themselves not precipitate the issue further by opening the Ramanathan Street gate for all and sundry. It is hoped that the school would do nothing un-Christian and cause nuisance to the residents of Ramanathan Street. There is no other credible material before this Court to conclude that there has been violation of the order of interim injunction dated 06.09.2018, warranting framing of charges against the alleged contemnors. Hence, this Contempt Petition is closed.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

gya

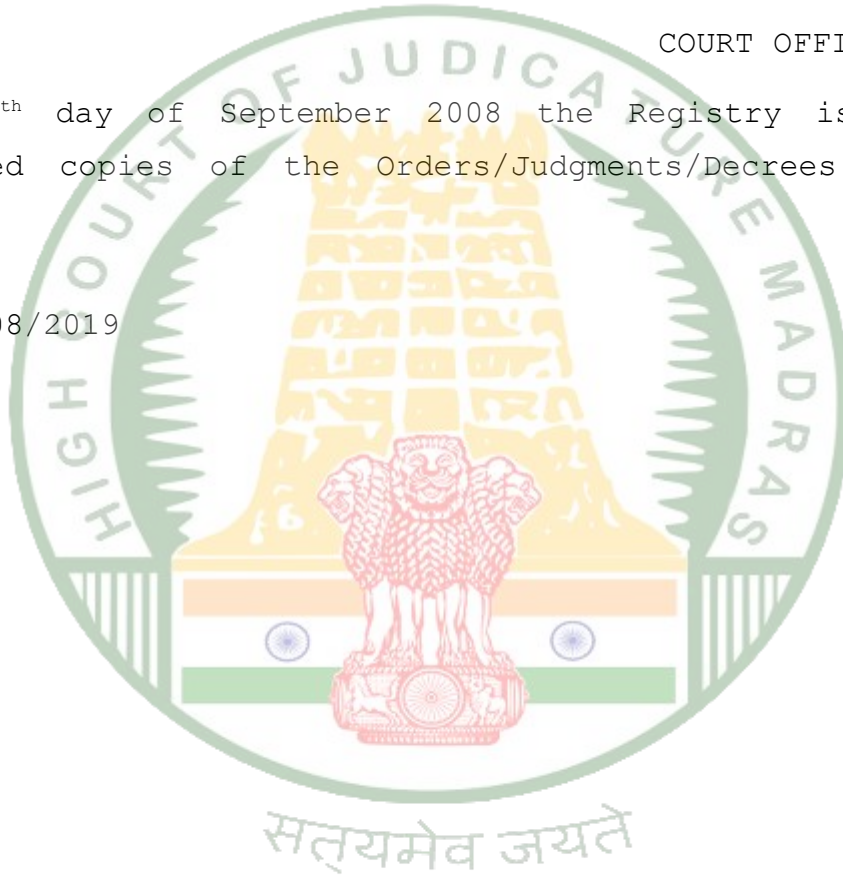
//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing
Certified copies of the Orders/Judgments/Decrees in this
format.

Smi/16/08/2019



WEB COPY