

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.22262 of 2018 and

WMP.Nos.26085 to 26087 of 2018

N.Vijayarangan

... Petitioner

Vs.

1. The Director of Elementary Education,
Elementary School Education,
DPI Campus, College Road,
Chennai-600 006.
2. The District Elementary Educational
Officer, Elementary School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Assistant Elementary Education Officer,
Adyar Range, Bazar Road, Saidapet,
Chennai-600 015.
4. VOC Primary School
rep. by its Secretary,
No.84/89 Kothavalchavadi Street,
Saidapet, Chennai-600 015.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to consider the representation dated 27.07.2018 by reviewing the recognition accorded to the 4th respondent School Management and cancel the same for the irregularities in conducting the school.

For Petitioner :Mr.A.S.Thambuswamy
for M/s.K.Chandrasekaran

For Respondents:Mr.P.Raja,
Government Advocate for R1 to 3
Mr.N.Moorthy for R4

O R D E R

Mr.N.Vijayarangan, claiming to be the co-owner of the land in premises at Old No.89, New No.84, Kothavalchavadi Street, Saidapet, Chennai-15 has come to this Court seeking to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider his representation dated 27.07.2018 thereby reviewing the recognition accorded to the 4th respondent School Management and cancelling the same taking into account the lives of the students.

2. Learned Counsel appearing for the petitioner submitted that the petitioner is a senior citizen and also the co-owner of the land-in-question where the 4th respondent school is running. When one Mr.Sankara Narayanan has started the 4th respondent Primary School by putting up thatched huts, Mr.Duraiswamy Naidu, the original owner of the property allowed him to run the school by collecting very nominal land rent from him. After the demise of Mr.Sankara Narayanan, his wife, namely, Mrs.Thayarammal became the tenant and she started to run the school and paid rents. Thereafter, Mr.Duraisamy Naidu executed a Will dated 25.07.1986, bequeathing the property in favour of his wife Mrs.V.Padmavathy and she allowed Mrs.Thayarammal to continue as her tenant by collecting the rents as before. After the demise of Thayarammal, Mrs.V.Padmavathy allowed Mrs.Anuradha, who is the daughter-in-law of Mrs.Thayarammal to continue as her tenant. She also started to pay the land rent to Mrs.V.Padmavathy up to January, 2002 and thereafter, no rent has been paid.

3. The learned Counsel for the petitioner further submitted that after sometime, Mrs.Anuradha, without the consent from the owner of the land-in-question has given the 4th respondent school to a third party and one Ambedkar Sekar claimed that he is the Secretary to the school when the petitioner at no point of time has agreed for his tenancy and in this regard, an Ejectment Suit No.36/2002 that was renumbered as O.S.No.7198/2011 was filed by the land owner and the same is also pending on the file of the learned VIII Assistant Judge, City Civil Court, Chennai. E.P.No.2190/2010 is also pending for eviction of unauthorised construction put up by the school authorities. That apart, one another suit in O.S.No.3199/2005 filed by the school authorities regarding tenancy of the school is also pending till now. When all these proceedings are pending, the 4th respondent school is being run without proper Form-D Licence. Further, the 4th respondent school is still running in asbestos sheets without any RCC Building which is utter disregard to the statutory norms stipulated in the Code of Regulations for Nursery and Primary Schools.

4. The learned Counsel for the petitioner also submitted that when the tenancy was already terminated way back in the year 2002 itself, without any authority, the 4th respondent school has been running and moreover, the Fire Safety Certificate issued by the Department was cancelled way back on 12.10.2011 itself and without obtaining any fresh Fire Safety Certificate, the 4th respondent school has been running till date with the following deficiencies, namely, (i) Roofs of all class rooms are by asbestos sheets; (ii) No separate room for the Principal and Teachers only by make shift partition board in between the class rooms; (iii) No building licence; (iv) No Certificate from the Health Department; (v) No sufficient sanitary facilities to the students; (vi) No water facilities to the students in the rest room; (vii) No adequate staff to clean the rest room used by the children; (viii) The Fire Safety Certificate issued by the department is cancelled in the year 2011 itself and without the same still the school is running; and (ix) The Electric Wiring in the class rooms are unsafe and are endangering to the life of the students.

5. The learned Counsel for the petitioner further submitted that mentioning all these irregularities and the deficiencies found in the 4th respondent school, the petitioner, being the co-owner of the property has given a representation dated 27.07.2018 to the respondents 1 to 3. But till date, they have not taken any action. Therefore, if a direction is given to the respondents 1 to 3 to consider the representation of the petitioner dated 27.07.2018, no prejudice would be caused to anyone, it is pleaded.

6. A detailed counter affidavit has been filed by the 1st respondent and also by the 4th respondent.

7. Since a prima facie case has been made out by the petitioner that there is no any Fire Safety Certificate issued after cancellation of the earlier Fire Safety Certificate on 12.10.2011 and that the 4th respondent school is also being run in asbestos sheets without any RCC Building, this Court, without going into the merits of the claim of the petitioner, directs the respondents 1 to 3 to consider the representation of the petitioner dated 27.07.2018 on merits and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this Order, after giving an opportunity of personal hearing to both the petitioner and the 4th respondent.

8. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Elementary Education,
Elementary School Education,
DPI Campus, College Road,
Chennai-600 006.
2. The District Elementary Educational
Officer, Elementary School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Assistant Elementary Education Officer,
Adyar Range, Bazar Road, Saidapet,
Chennai-600 015.

+lcc to Mr.K.Chandrasekaran, Advocate sr.4653
+lcc to Mr.N.Moorthi, Advocate Sr.4670
+lcc to the Government Pleader Sr.5060

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W.P.No.22262 of 2018

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