

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 16.10.2019

Judgment Pronounced on : 25.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.22446 of 2019
and WMP.Nos.21824 & 21825 of 2019

1.R.Ganesan
2.T.Kuppan
3.A.Dharmalingam
4.P.Dhanusu
5.V.K.Sivakozhundu
6.P.Madavan
7.V.Ramalingam
8.G.Arumugam
9.S.Thangavelu @ Moorthy .. Petitioners

Vs

1.The Government of Tamil Nadu
Represented by Secretary
(Home Department)
Secretariat, Fort St.George
Chennai - 600 009.

2.The Government of Tamil Nadu
Represented by Secretary
Animal Husbandry Department
Secretariat, Fort St.George
Chennai - 600 009.

3.The Registrar General
High Court
Madras - 600 104.

4.The District Collector
Villupuram District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to shift the District Munsif cum Judicial Court, Vanur from the present location to S.No.371/2, Vanur Taluk, Villupuram District, wherein the court building is ready for occupation in S.No.408/2A1A, Vanur Taluk, Villupuram District, wherein the Court functioned earlier.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.E.Manoharan

Special Government Pleader [R1,R2 &R4]

Mr.E.Kumaresan [R3]

ORDER

[Order of the Court was made by N.SESHASAYEE,J.]

The writ petitioners seek issuance of a writ of mandamus for shifting a Court. They seek to substantiate their entitlement with the following averments filed in support of this petition :

- The District Munsif Court at Vanur was established in 1911 and was functioning in a building constructed in Re-survey Nos.371/1 & 371/2 of Vanur Village, on a site that measures about 1.30 acres (There is some ambiguity as to the extent of the site, since, at one place it is stated to be 1.61 acre). To carry out some repair in the said building, the Court was shifted to another building in S.No.408/2A1A, where the court functioned between 1989 and 1996, from where it was again shifted to another building Tiruchitrambalam Cross Road and ever since it was functioning in the rented premises.
- The Third Respondent (Registrar General of this Court), Vide his letter dated 23.04.1996, has indicated that this shifting of Court was only temporary. This statement, later found a mentioning in an Order of this Court in WP.No.4928 of 1996, which came to be filed to restrain the shifting of the Court from Vanur to Tiruchitrambalam Cross Road.
- Be that as it may, the third respondent herein preferred an application in RA.4/2002 to review the Order dated 26.10.1999, passed in WP.No.4928/1996. This review was intended to set at naught an order passed on the administrative side of this court through a review on the judicial side.
- While so, about 2007, it was proposed to construct a new Court building in RS.No.7/5B, Chettykulam at Tiruchitrambalam Road. This idea was dropped as the proposed site was a water course. There was yet another proposal made to construct a Court building in another place and that also came to be rejected.
- In 2015, efforts were revived to acquire grazing lands in S.No.227/5 in Pullichampallam Village, for constructing the Court building. This place is about 30 kms from Vanur. Secondly, inasmuch as the proposed site is part of designated grazing land, it belongs to Animal Husbandry Department.

- Presently, the old building of the British Era available in S.F.No: 371/2 (from where the Court came to be shifted to Tiruchitrambalam Cross Road), has been renovated, and is fit and ready for occupation. To construct the Court building at a place which is 30 kms away from Vanur, denies and infringes on the right of the litigants to access justice.

2.Heard both sides. No counter has been filed. The learned counsel for the petitioners, in essence argued:

- When there is a building fit and ready for occupation right in the village, it is a waste of public money that a new court should be constructed, that too at a place which is about 30 k.m. from the old court in Vannur.
- By shifting the court to a new place, the litigant-public who intend to access the Court would find it least convenient to travel the distance.
- That the third respondent, has already indicated that the shifting the court from Vanur in 1989 was only a temporary measure. The on going efforts to construct a new building is contrary to the promise made.

3.In the course of the arguments, a statement was made by the counsel representing the third respondent to the effect that the old Court building in S.No.371/2 has been handed over to the Revenue. The learned Advocate representing the Government would submit that an alternate grazing land would be given. Thirdly, it is seen from the typedset of papers produced by the petitioners, a copy of the Order passed by the another Division Bench of this Court in W.P.No.31303 of 2018, dated 18.2.2019. This petition was filed by yet another resident of of Vanur Village for forbearing the Government or its officials from de-classifying the Mandaveli (grazing land) in S.No.227/5 and transferring the same to the High Court or to any other Department. This came to be dismissed.

4.This apart, a copy of the communication of the Principal District Judge, Villupuram in D.No.8409/2019 dated 16.10.2019, was also placed before this Court. In the context of the prayer made, the report of the Principal District Judge, is relevant here and the same is extracted :

"It is submitted that on verification of the report of the The Tahsildar, Vanur, it is found that the said Old office of the Deputy Tahsildar building was constructed during the British period in the year 1911. At present the District Munsif-cum-Judicial Magistrate Court, Vanur is functioning in a rental building which is now located in Thiruchitrambalam Road at Vanur. The distance between these two locations is approximately 7 kilometres.

At present, the condition of the said Old office of the Deputy Tahsildar building is poor and the structure of the building is in dilapidated condition. Though the Tahsildar, Vanur, has submitted in his report that the building is Survey No.371/2 can be occupied after necessary renovation work, it is found that the building requires large scale renovation work. In my opinion, the space in the said survey number would not be sufficient to accommodate the Court Hall, Chamber, Office Room, Nazir Office, Property Room & Record Room, Server room, e-filing centre, Taluk Legal aid, etc. Moreover, there is no additional space for Judicial Officer Quarters. In addition to the above, the facilities like rest room for chamber, office & litigant public should have to be constructed, afresh and no space is available for any additional construction."

5. Reacting to this communication, the learned counsel for the petitioner would now argue, that the new building might be constructed where the British era buildings now stands, and the court be housed there.

6. After a careful consideration of the arguments advanced, and on perusal of the material papers, this Court is hardly convinced about the merit of the petitioners case. The reasons are:

- Right to access justice does not imply that there exist a right to have a Court at a specific place of litigant's choice.
- Secondly, a statement of the Registrar General made in 1996, (as the voice of the Administrative side of this Court) that the shifting of the court in 1989 was a temporary measure, is not a binding promise. It was only a statement that was made on assessing the circumstances that prevailed then.
- Where to have the Court involves a policy decision of the Govt. and the High court, and this court sitting on the judicial side cannot review the wisdom of that decision.

7. In the result, this petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ds

To:

1. The Secretary,
(Home Department)
Secretariat, Fort St.George
Chennai - 600 009.
- 2.The Secretary,
Animal Husbandry Department
Secretariat, Fort St.George
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- 3.The Registrar General
High Court
Madras - 600 104.
- 4.The District Collector
Villupuram District.

+lcc to Mr.V.Raghavachari, Advocate SR.No.89558

W.P.No.22446 of 2019

SPD(CO)
GMY(04/12/2019)