

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.31777 of 2019

T.A.Shanmugam

.. Petitioner

Vs

1.The Director,
Directorate of Town & Country Planning,
Door No.807, Opp. to LIC Building,
Chengalvarayan Building, Anna Salai,
Chennai - 600 002.

2.The District Collector,
District Collectorate Campas,
Salem District - 636 001.

3.Block Development Officer,
Tholasampatti, Omalur Taluk,
Salem District.

4.The Correspondent,
Sivagamiammal - Subramaniam,
Nursery & Primary School,
Tholasampatti, Omalur Taluk,
Salem District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first, second and third respondents to consider the representation of the petitioner and pass appropriate orders to discontinue the use of such unauthorized and illegal construction of building by locking and sealing the school premises in the interest of student at large in such manner as may be prescribed irrespective of pendency of any application under Section 49 or appeal under Section 79 or any litigation before a Court and also direct the 4th respondent to provide security for such sealed premises within a time frame that may be stipulated by the Court.

For Petitioner .. Mr.V.Rajasekar

For Respondents .. Mr.M.Elumalai for R1 to R3

Mrs.R.Gowri for R4

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This writ petition has been filed as a public interest litigation to take appropriate action against the fourth respondent with respect to the violation made in the construction of the school building.

2.The learned counsel appearing for the fourth respondent submitted that in the guise of a public interest litigation, the present writ petition has been filed. There were earlier proceedings between the petitioner herein and the fourth respondent. This is nothing but a shadow of boxing set up by the third parties, who are inimically disposed against the fourth respondent.

3.We do not wish to say anything on merits. In paragraph 7 of the counter affidavit filed by the first respondent, the following statement has been made.

"7.It is further submitted since the petitioner's school constructed unauthorized construction, the Deputy Director of Town and Country Planning, Salem Region in his letter dated 03.02.2020 informed to the Block Development Officer, (Village Panchayat) Omalur and President, Tholasampatti Village Panchayat to take action as per the Country Planning Act, 1971, Section 47A and under sections 56 and 57 says as follows:

47A: Development of land in an area other than planning area

1. any person intending to carry out nay development on any land in an area other than planning area shall make an application in writing to the Local Authority for permission in such form and containing such particulars and accompany such documents as may be prescribed.

2. The Local Authority shall before according permission under sub-section (1) shall obtain the prior concurrence of the Director and shall also collect such fees at such are as may be prescribed.

Sec.56. Power to require removal of unauthorised development:

(1)Where any development of land or building has been carried out.

(2)Without permission required under this Act.
and also requested the Block Development Officer,
(Village Panchayat) Omalur and President,
Tholasampatti Village Panchayat to submit report on
03.02.2020 and also sent reminder letter on
06.03.2020."

4. Thus in view of the same, we would only call upon the third respondent to proceed in accordance with the said communication letter dated 03.02.2020 and do the needful. The writ petition stands closed accordingly. We make it clear that we have not expressed anything on the merits of the case. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

raa/kmk

To

1.The Director,
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Chennai - 600 002.

2.The District Collector,
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Salem District - 636 001.

3.Block Development Officer,
Tholasampatti, Omalur Taluk,
Salem District.

+1cc to Government Pleader SR.No.29518

W.P.No.31777 of 2019

KJ(CO)
GMY(19/10/2020)