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W.P(MD)No.10059 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.SATHYANARAYANAN**

and

THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

W.P(MD)No.10059 of 2020

R.N.Pandian

.. Petitioner

Vs.

1.Union of India, represented through
the Chief Post Master General,
Head Post Office, Anna Salai.

2.The Senior Superintendent,
Post Offices, Trichy Circle,
Trichy District.

3.The Post Master,
Theppakulam Post Office,
Theppakulam,Trichy City,
Trichy District.

4.The Society of St. Joseph College,
through its Procurator,
Trichy District.

.. Respondents

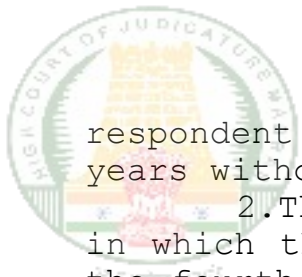
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st to 3rd respondents to initiate proper legal action to acquire the property at plot No.29 in the present town survey No.2578 of Ward No.4, namely Theppakulam Post Office of Trichy City Municipal Corporation as per the provisions contemplated under the Requisitioning and Acquisition of Immovable Property Act, 1952, and pass such further or other orders.

For Petitioner	: Mr.C.M.Arumugam
For Respondents 1 to 3	: Mr.M.Karthikeya Venkitachalapathy
For Respondent No.4	: Dr.R.Rajagopal for Mr.Sabarathinam

ORDER

[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

This writ petition styled as a Public Interest Litigation, is filed by Mr.R.N.Pandian, Door No.22, East Aandal New Street, Trichy District and in the affidavit filed in support of this writ petition, he would aver among other things that the place in which Theppakulam Post Office is functioning, belongs to the fourth



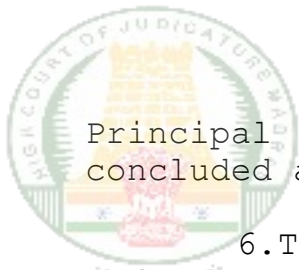
respondent and the post office is functioning there for over 100 years without any interruption.

2.The competent authority had taken steps to acquire the land in which the post office is located and it was put to challenge by the fourth respondent society by filing W.P.No.5552 of 1982 against the award passed by the Collector, Trichy District and it has ended in dismissal and challenge was made to the said order before the Hon'ble Supreme Court of India in Civil Appeal No.7751 of 2001. The Hon'ble Supreme Court of India has taken into consideration Writ Petition (C) No.42 of 1985, which involves interpretation of the provisions of Clause (1A) of Article 30 of the Constitution of India, by virtue of Constitution (Forty-fourth Amendment) Act, 1978. The Hon'ble Supreme Court of India has disposed of the Civil Appeal with certain directions.

3.The fourth respondent filed W.P.No.6187 of 2003 praying for issuance of a writ of mandamus directing the respondents 1 to 3 herein, to vacate and hand over possession of the premises, in which, the Theppakulam Post Office is located, to them and the writ petition was dismissed on 28.02.2007 and aggrieved by the same, the fourth respondent filed W.A.No.1012 of 2007. A Division Bench of this Court, vide Judgment, dated 20.01.2011, had granted liberty to the fourth respondent / appellant to approach the competent Civil Court by way of filing a suit for eviction of the respondents from the premises in accordance with law and accordingly, disposed of the writ appeal.

4.The learned counsel appearing for the petitioner would submit that in the light of the fact that the post office is in existence for over 100 years and there is no suitable and alternative accommodation available, this Court may issue appropriate orders to the official respondents for acquiring the property located in Town Survey No.2578 of Ward No.4 of Trichy City Municipal Corporation, as per the provisions contemplated under the Requisitioning and Acquisition of Immovable Property Act, 1952 and in this regard, the representation, dated 22.07.2020, has also been submitted to the concerned official respondents and a positive direction may be given to the official respondents to consider and dispose of the said representation on merits and in accordance with law, by fixing an outer time limit.

5.Mr.M.Karthikeya Venkitachalapathy, learned counsel, accepts notice on behalf of the respondents 1 to 3 and Mr.R.Rajagopal, learned counsel, accepts notice on behalf of the fourth respondent and they would submit that in pursuant to the liberty granted by the Division Bench, vide Judgment, dated 20.01.2011 in W.A.No.1012 of 2007, the fourth respondent has filed a suit in O.S.No.98 of 2012 against the official respondents, for delivery of possession and other consequential reliefs and the suit after contest, came to be decreed on 10.10.2014 and challenging the same, the official respondents filed A.S.No.197 of 2014 on the file of the Court of



Principal Subordinate Judge, Trichy and final arguments have been concluded and Judgment is reserved.

6.This Court has carefully considered the rival submissions and perused the materials placed on record.

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7.It is an undisputed fact that the fourth respondent society is the owner of the land in which Theppakulam Post Office is located and it is functioning in the said place for over 100 years.

8.The fourth respondent also got a decree of delivery of possession and consequential reliefs in their favour, vide Judgment, dated 10.10.2014, made in O.S.No.98 of 2012 and the challenge made to the Judgment and decree passed in O.S.No.98 of 2012, by the defendants / appellants, is also likely to be over soon, as Judgment has been reserved.

9.The writ petitioner claims to be a public interest litigant and prays for a positive direction to acquire the land by invoking the relevant provisions of law.

10.It is to be noted, at this juncture, that the fourth respondent is a religious minority institution and they are also having protection of Article 300A of the Constitution of India.

11.It is for the respondents 1 to 3 to take a call as to the possession of the property in which the post office is located and taking into consideration, the above facts and circumstances of the case, this Court is of the view that there cannot be any positive direction to the official respondents to acquire the land in question.

12.The representation is submitted in this regard by the petitioner, praying for the above said relief and in the light of the reasons assigned above, this Court cannot issue any positive direction, in this regard.

13.In the result, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

ORDER MADE IN

W.P(MD)No.10059 of 2020

26.08.2020

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