



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.08.2020

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.9457 of 2018

and

W.M.P. (MD)No.11143 of 2018

Zamin Devarkulam Keelatheru Kammavar
Sangam, Zamin Devarkulam,
represented by its Secretary,
Dr.G.Rengasamy

... Petitioner

Vs

1. The Assistant Elementary Educational Officer,
Kuruvikulam Block, Kuruvikulam Village,
Tirunelveli District.

2. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to cancel the approval of the Educational Agency of the Hindu Primary School Zamin Devarkulam in Thoothukudi District stands in the name of P.Ramasamy Naicker and to transfer the Educational Agency of the Hindu Primary School, Zamin Devarkulam in Thoothukudi District in favour of the petitioner Society as directed by the learned District Munsif, Kovilpatti in O.S.No.158 of 2014, dated 30.08.2017 or any other relief.

For Petitioner	: Mr.S.Mahalakshmi
For Respondents	: Mr.N.Shanumugaselvam, Additional Government Pleader

ORDER

This writ petition is filed to direct the respondents to cancel the approval of the educational agency of the Hindu Primary School, Zamin Devarkulam in Thoothukudi District stands in the name of P.Ramasamy Naicker and to transfer the same in favour of the petitioner society.



2.The learned counsel appearing for the petitioner would submit that in this writ petition, the petitioner is the society and the same is registered under the Tamilnadu Societies Registration Act.

3.The learned counsel would further submit that the petitioner society had filed writ petitions in W.P.(MD) Nos.11846 and 11847 of 2011 before this Court and the same has been dismissed on 05.04.2013. Challenging the same, the petitioner society filed writ appeals in W.A.(MD) Nos.869 and 870 of 2013 and the same has also been dismissed on 19.08.2013, directing the appellants therein / petitioner herein to approach the competent civil Court to workout his remedy.

4.In such circumstances, the petitioner society had filed a suit in O.S.No.158 of 2014 on the file of the District Munsif Court, Kovilpatti, against the then educational agency, P.Ramasamy Naicker, for declaration and other reliefs. During the pendency of the suit, the said P.Ramasamy Naicker died and thereafter, the suit was decreed as prayed for with cost on 30.08.2017.

5.The learned counsel would further submit that as against the judgment and decree dated 30.08.2017, no appeal has been preferred and that therefore, the judgment and decree dated 30.08.2017, had become final. He would further submit that the petitioner society made a representation dated 15.11.2017 to the 1st respondent, seeking to comply with the judgment and decree of the Court below dated 30.08.2017. So far, no action has been taken by the 1st respondent. Hence, left with no other alternative, the petitioner is before this Court.

6.Counter affidavit filed on behalf of the 1st respondent.

7.The learned Additional Government Pleader appearing for the respondents would submit that as against the judgment and decree dated 30.08.2017, the legal heirs of the said Ramasamy Naicker had filed an appeal with an interlocutory application in L.A.No.37 of 2018 on the file of the Sub Court, Kovilpatti, seeking to permit them to proceed with the appeal and the same is pending. At this juncture, the relief sought for by the petitioner cannot be granted now and that therefore, the learned Additional Government Pleader prays before this Court that the writ petition ought to be dismissed.

8.Recording the submission made by the learned Additional Government Pleader and in view of the aforesaid factual position, this Court cannot entertain the writ petition as prayed for. Accordingly, the Writ Petition is disposed of with liberty to the petitioner to make a fresh application to workout their remedy



before the authorities concerned, after the disposal of the aforesaid appeal, if they are entitled. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Assistant Elementary Educational Officer,
Kuruvikulam Block, Kuruvikulam Village,
Tirunelveli District.
2. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

W.P. (MD) No.9457 of 2018
and

W.M.P. (MD) No.11143 of 2018
13.08.2020

das/mm

AE/ (26.08.2020) 3P 3C