



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8783 of 2021

Jessie Robinson Jacob

... Petitioner

Vs.

1.The District Collector,
Office of Collectorate,
Kanniyakumari

2.The Tahsildar,
Taluk Office,
Thovalai,
Kanniyakumari.

3.The Block Development Officer,
Thovalai,
Kanniyakumari.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the dilapidated Government School building in Survey No.344/6B, within the time frame that may be fixed by this Court, by considering the petitioner's representation, dated 05.09.2020.

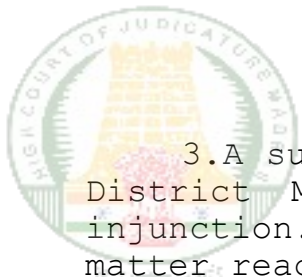
For Petitioners : Mr.Niranjana S.Kumar

For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

This writ petition has been filed for the issue of a Writ of Mandamus directing the respondents to consider the representation made by the petitioner, on 05.09.2020, wherein, the petitioner has requested the respondent to remove the Government School situated in S.No.344/6B.

2.The case of the petitioner is that the subject property was owned by his grandfather. The further case of the petitioner is that his grandfather permitted the then Travancore Government to construct a Government School, but, however, retained the ownership over the property. Later, the petitioner became entitled to the property by virtue of a partition deed.



3.A suit was filed in O.S.No.1961 of 1996, before the Principal District Munsif Court, Nagercoil, for the relief of permanent injunction. The said suit came to be dismissed and ultimately, the matter reached this Court in S.A.No.797 of 2003.

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4.This Court on considering the pleadings and the evidence available on record, interfered with the findings of both the Courts below and set aside the judgment and decree insofar as the S.No.344/6B is concerned. The suit was decreed for this survey number. The Review Application filed by the Government was also dismissed by this Court at the condone delay stage itself.

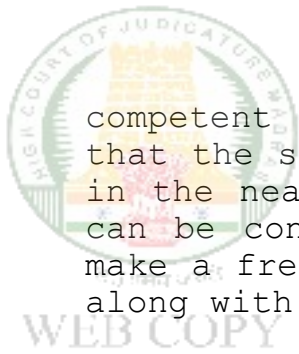
5.The petitioner thereafter, made a representation before the respondents, on 05.09.2020, requesting for the removal of the School, which according to the petitioner is in a dilapidated condition. The petitioner also got the concurrence of the Grama Sabha in this regard and the resolution passed in the meeting was also sent along with the representation.

6.The grievance of the petitioner is that the respondents have not acted upon the representation made by the petitioner and hence, left with no other option, the present writ petition has been filed before this Court, seeking for appropriate directions.

7.Heard Mr.Niranjan S.Kumar, learned counsel appearing for the petitioner and Mr.R.Sureshkumar, learned Government Counsel appearing for the respondents.

8.The learned Government Advocate based on the written instructions submitted that the School in question is running from the year 1947 onwards and even now there are 48 students studying in the School and it has one Headmaster and a Teacher. The learned counsel further submitted that students belonging to the nearby Villages are studying in this School. It was further submitted that even though the School is an old School, it is not in a dilapidated condition.

9.In the considered view of this Court, the petitioner had obtained only a decree for permanent injunction and not a decree for possession or mandatory injunction. Therefore, the petitioner cannot as a matter of right seek for the relief of direction to the respondents to remove the School. It will be left open to the respondents to take into consideration the representation made by the petitioner, on 05.09.2020 and to verify if the School building is in a very bad shape. Ultimately, the structure of the building must be safe, since it involves the precious lives of the students. If the respondents want to continue with the School, the same shall be informed to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. It will thereafter, be left open to the petitioner to work out his remedy before the



competent Civil Court. If on the other hand, the respondents find that the structure is not safe and the students can be accommodated in the nearby Government Schools, such a decision can be taken and can be conveyed to the petitioner. The petitioner is directed to make a fresh representation in this regard to the third respondent along with a copy of this order.

10.This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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 District Collector, Office of Collectorate, Kanniyakumari.

2.The Tahsildar, Taluk Office, Thovalai, Kanniyakumari.

3.The Block Development Officer, Thovalai, Kanniyakumari.

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-22202[F] dated 13/07/2021)

+1 CC to M/s.SPL GP (SR-22298[F] dated 13/07/2021)

Order made in

W.P. (MD) .No.8783 of 2021

12.07.2021

KMK(CO)

TR(19.07.2021) 3P 6C