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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P. Nos.31290 of 2013

and

M.P. Nos.1 of 2013

House of Peace
(Registered Charitable Trust)
Home for Destitute Children
Rep. by its Director Rev.Dr.S.Jayaraj Krishnan
Vasantha Puram,
Chinna Thirupathy (P.O)
Salem - 1.

.. Petitioner

Vs.

The Commissioner,
Corporation of Salem,
Salem - 1.

.. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records relating tot he impugned order of the respondent dated 29.08.2013 in Na.Ka.No.J11/2013 and quash the same and direct the respondent to consider the petitioners' representation dated 07.06.2013 as per the order passed by this Court in W.P. No.17133/2013 dated 15.07.2013.

For Petitioner : Mr. M.Thamizhavel

For Respondent : Ms. K.Bhuvaneswari

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the respondent dated 29.08.2013, rejecting the request made by the petitioner for extending the period for maintenance of the park for thirty years.

2. The case of the petitioner is that they are running a 'Home' for destitute children and orphanage schools in various



places at Salem District. There was a park adjacent to the home for destitute children and the respondent permitted the petitioner to maintain the park through proceedings dated 17.12.2002 for a period of three years. According to the petitioner, the park was maintained by growing several plants and trees and it was prevented from being encroached by outsiders.

3. The petitioner made a representation before the respondent to extend the period of maintenance for another thirty years. This representation was rejected by the respondent through impugned letter dated 29.08.2013. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The respondent has filed a counter affidavit. It is stated that the park was handed over to the petitioner for maintenance and it was renewed from time to time up to the year 2005. It is further stated in the counter affidavit that the petitioner had put up a compound wall with a gate and also constructed a room with Asbestos sheet roof in the place that was supposed to be maintained by them as a park and considering the conduct of the petitioner, the respondent decided not to grant any extension for the petitioner to maintain the park. In view of the same, the respondent has sought for the dismissal of this Writ Petition.

5. Heard Mr. M.Thamizhavel, learned counsel appearing for the petitioner and Ms. K.Bhuvaneswari, learned counsel appearing for the respondent.

6. In the considered view of this Court, for issuing a Writ of Mandamus, the petitioner must show a legal right and there must be a corresponding legal duty on the part of the respondent. In the present case, the property in question is admittedly a public park and the respondent thought it fit to permit the petitioner to maintain the park. That does not mean that the petitioner will have a legal right to seek for maintenance of the park forever. The permission granted to the petitioner is in the nature of a license which can be withdrawn or revoked at any time by the respondent.

7. This Court does not find any ground to interfere with the rejection letter issued by the respondent on 29.08.2013 and it does not warrant any interference of this Court. The fact that the petitioner was properly maintaining the park by itself



does not create a legal right in favour of the petitioner to seek for renewal and extension of time.

8. In the result, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

bkn

To

The Commissioner,
Corporation of Salem,
Salem - 1.

+1cc to M/s.M.Thamizhavel, Advocate, S.R.No.38663

W.P. No.31290 of 2013

RSV (CO)
UMA (08/07/2022)