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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM :

THE HON'BLE MR.JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.No.15309 of 2022
and
W.M.P.Nos.14475 & 14476 of 2022

Shantha S Kalingarayar

..Petitioner

Vs.

1. Government of Tamil Nadu,
rep by The Secretary,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Pollachi Municipality,
rep by its Commissioner,
Pollachi - 642 001.
3. The Commissioner and Member Secretary,
Local Planning Authority,
Pollachi.
4. The Joint Director,
District Town and Country Planning Office,
Corporation Commercial Complex,
Dr.Nanjappa Road, Coimbatore.
5. The Sub-Collector,
Pollachi Taluk,
Coimbatore District.
6. The Tahsildar,
Pollachi,
Coimbatore District.
7. The District Education Officer,
Pollachi Educational District,
Pollachi,
Coimbatore District.

..Respondents



Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus calling for the entire records pertaining to the order of the 3rd respondent in Ka.Ma.No.24/2022/G3 dated 08.04.2022 and quash the same as null and void and further forbear the respondents their men or agents or representatives from interfering in manner whatsoever with occupation and business of the petitioner at No.B9, B10. B11 LIG Colony, B-Block Mahalingapuram, Pollachi measuring an extent of 15313.50 sq.ft.

For Petitioner : Mr.Saicharan Rangarajan,
for Mr.K.Gowthamkumar

For Respondent : Mr.K.Karthik Jaganath,
Government Advocate (R1, 4 to 7)

Mr.B.Anand, Standing Counsel (R2 & R3)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records pertaining to the order of the 3rd respondent dated 08.04.2022 and to quash the same and further to forbear the respondents from interfering in manner whatsoever with occupation and business of the petitioner at No.B9, B10. B11 LIG Colony, B-Block Mahalingam, Pollachi measuring an extent of 15313.50 sq.ft.

2.It is the case of the petitioner that the 3rd respondent issued a notice under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971 for locking and sealing the premises for the reason that the petitioner sought to start a play-school in the residential building.

3.Mr.Sricharan Rangarajan, learned counsel appearing for the petitioner submitted that in the State of Tamil Nadu, authorities permit running a play-school in residential area and the 3rd respondent had singled out the petitioner and is preventing her from starting a play-school.

4.Mr.K.Karthik Jaganath, learned Government Advocate taking notice for the respondents 1, 4 to 7 and Mr.B.Anand, learned Standing Counsel taking notice for the respondents 2 & 3 submitted that the planning permission was granted to the



petitioner only for residential purpose and any deviation from the usage would result in taking action against her under Sections 56 & 57 of the Act.

5. On a reading of Section 56 (1)(b) of the Tamil Nadu Town and Country Planning Act, it is clear that the authority has got power to remove the unauthorized development, which is in contravention of any permission granted or of any condition subject to which permission has been granted.

6. It is not in dispute that the planning permission was granted to the petitioner only for residential purpose. That being the case, the provisions of Section 56(1)(b) clearly prohibits any contravention of the planning permission in any manner whatsoever.

7. Mr. Sricharan Rangarajan, learned counsel for the petitioner submitted that the respondents 2 & 3 may be directed to remove the lock and seal and that the petitioner would give an undertaking that she shall not deviate from the planning permission granted to her and that she shall not start a play-school in the said premises without obtaining permission from the respondents. The learned counsel further submitted that the petitioner would file an affidavit of undertaking to that effect on or before 21.06.2022.

8. The learned counsel for the respondents 2 & 3 submitted that in the event of the petitioner filing an affidavit of undertaking as stated above, the lock and seal put up by the respondents 2 & 3 would be removed and that any application submitted by the petitioner seeking permission to run the play-school would be considered in accordance with law.

9. Having regard to the submissions made by the learned counsel on either side, in the event of the petitioner filing an affidavit of undertaking on or before 21.06.2022 to the effect that she shall not contravene the planning permission in any manner whatsoever and that she shall use the premises only for the residential purpose until she gets permission from the authorities for running a play-school in the residential building, the respondents shall remove the lock and seal within two days from the date of filing of the affidavit of undertaking and permit the petitioner to use the premises for residential purpose. In the event of the petitioner submitting an application seeking permission to run a play-school in the residential building, the respondents may consider the same, on merits and in accordance with law.

10. With these observations, the Writ Petition is disposed of. The affidavit of undertaking to be filed by the petitioner



shall form part of the record. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai - 9.
2. The Commissioner,
Pollachi Municipality,
Pollachi - 642 001.
3. The Commissioner and Member Secretary,
Local Planning Authority,
Pollachi.
4. The Joint Director,
District Town and Country Planning Office,
Corporation Commercial Complex,
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5. The Sub-Collector,
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Coimbatore District.
6. The Tahsildar,
Pollachi,
Coimbatore District.
7. The District Education Officer,
Pollachi Educational District,
Pollachi,
Coimbatore District.

+lcc to Mr.K.Gowtham Kumar, Advocate, S.R.No.36341

W.P.No.15309 of 2022
and W.M.P.Nos.14475 & 14476 of 2022

KV(CO)
RGA(17/06/2022)