



W.P.No.19501 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.19501 of 2020 and
W.M.P.No.24106 of 2020

T.Tamilselvi

.. Petitioner

Vs.

- 1.The District Collector,
District Collectorate Office,
Thiruvarur & District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruvarur,
Thiruvarur District.
- 3.The Tahsildar,
Tahsildar Office,
Kudavasal,
Thiruvarur & District.
- 4.The Village Administrative Officer,
No.43, Kudavasal & Taluk,
Thiruvarur District.
- 5.The Executive Officer,
Kudavasal Town Panchayat,
Kudavasal & Taluk,
Thiruvarur District.



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6.Dhanapalan

7.Muralidharan

8.Sivasankaran

9.Poonkodi

10.Muthukumar

11.K.Sivakumar

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to take action against the respondents 6 to 11 to seal the illegally established Educational Institution under the name and style of G.D.Educational and Charitable Trust and subsequently to demolish the illegal constructions made over the suit property as per the petitioner's representation dated 16.05.2019.

For Petitioner : Mr.M.Thamizhavel

For RR 1 to 5 : Mr.C.Jayaprakash
Government Advocate

For RR 6 to 11 : Mr.C.Sundarraaj
Senior promoted Government Advocate

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 to 5 to take action against the respondents



6 to 11 to seal the illegally established Educational Institution under the name and style of G.D.Educational and Charitable Trust and subsequently to demolish the illegal constructions made over the suit property as per the petitioner's representation dated 16.05.2019.

2. According to petitioner, he is the absolute owner of the property in S.No.122/4A measuring 43 cents situated at Kudavasal Town Panchayat, Thiruvarur District. The respondents 6 to 11 are putting up illegal construction in the property in question in the name and style of G.D.Education and Trust. The learned counsel appearing for the petitioner contended that the petitioner filed suit in O.S.No.24 of 2006 on the file of the District Munsif Cum Judicial Magistrate Court, Nannilam, against the respondents 6 to 11 for permanent injunction restraining them from interfering with the possession of the suit property. The said suit was dismissed by the judgment and decree dated 23.09.2013. Against the said judgment and decree dated 23.09.2013 made in O.S.No.24 of 2006, the petitioner filed First Appeal in A.S.No.31 of 2013 on the file of the Sub Court, Thiruvarur. The said First Appeal was decreed by the judgment and decree dated 20.04.2018, granting injunction in favour of the petitioner. Challenging the said judgment and decree dated



20.04.2018 made in A.S.No.31 of 2013, the respondents 6 to 11 have filed Second Appeal in S.A.No.781 of 2018 on the file of this Court. This Court has not granted any stay of judgment in A.S.No.31 of 2013. In spite of injunction granted in favour of the petitioner in A.S.No.31 of 2013, the respondents 6 to 11 are putting up illegal construction in the property in question without obtaining any permission from the authorities concerned. In such circumstances, the petitioner has come out with the present Writ Petition for the relief sought for above.

3.Mr.C.Jayaprakash, learned Government Advocate appearing for the respondents 1 to 5 submitted that the 5th respondent will inspect the property and if there is any illegal construction, they will proceed in accordance with law.

4.The respondents 6 to 11 have not filed any counter affidavit. The learned counsel appearing for the respondents 6 to 11 has filed a memo stating that the petitioner cannot initiate simultaneous proceedings while the Second Appeal is pending. He further submitted that the respondents 6 to 11 are not constructing any building in the property in question and prayed for dismissal of the Writ Petition.



5. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 5 as well as the learned Senior Promoted Government Advocate appearing for the respondents 6 to 11 and perused the entire materials on record.

6. From the materials on record and the contention of the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 5 and the learned Senior Promoted Government Advocate appearing for the respondents 6 to 11, it is seen that Civil Proceedings initiated by the petitioner is with regard to injunction against the respondents 6 to 11. It is not in dispute that in A.S.No.31 of 2013, injunction is granted against the respondents 6 to 11 and the respondents 6 to 11 filed S.A.No.781 of 2018 before this Court and the same is pending. The learned Senior Promoted Government Advocate appearing for the respondents 6 to 11 did not dispute the contention of the learned counsel appearing for the petitioner that this Court has not granted any stay of the judgment passed in A.S.No.31 of 2013. In view of the allegation of the petitioner that respondents 6 to 11 are putting up illegal construction without obtaining permission from the authorities and the submission of the learned counsel appearing for the



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respondents 6 to 11 that respondents are not constructing any building, it is suffice to direct the 5th respondent to inspect the site in question within a period of 15 days from the date of receipt of a copy of this order after issuing notice to the petitioner and respondents 6 to 11 and take action as per law if any unauthorized construction without obtaining permission has been put up by the respondents 6 to 11.

7. With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

(V.M.V., J) (R.H., J)
08.12.2022

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Index : Yes / No
Internet : Yes / No

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and

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