



W.P.(MD) No.190 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2022

CORAM:

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
THE CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN**

W.P.(MD) No.190 of 2019

S.K.Vaithiyalingam

... Petitioner

-VS-

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Tahsildar,
Kadayanallur Taluk,
Kadayanallur.
- 3.The Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.
- 4.The Executive Officer,
Sambavarvadakarai Town Panchayat,



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Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents to construct a new buildings in Government Primary School (Central) in Survey No.754/54, Sambavarvadakarai Village, Kadayanallur Taluk, Tirunelveli District.

For Petitioner : Mr.Karthikeyavenkatachalapathy

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader
for R.1 to R.3

; No Appearance for R.4

ORDER

[Order of the Court was made by The Hon'ble The CHIEF JUSTICE]

The Writ Petition has been filed to seek a direction on the respondents to construct a new building in Government Primary School (Central) in Survey No.754/54, Sambavarvadakarai Village, Kadayanallur Taluk, Tirunelveli District.

2. Learned counsel for the petitioner submits that the school was running in Survey No.754/54 and was handed over to the Government in the year 1948. The new school building was required to be constructed as old was in



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dilapidated condition, the petitioner made a representation but when he no heed to it was paid, the writ petition was filed.

3. Learned Additional Government Pleader appearing for the respondents submits that the property in question was belonging to a Trust and for that, even the petitioner has given a reference to the revenue records showing it to be in the name of an individual and the Trust. Since the Trust and individual were not in a position to run the school properly, the Government took a decision to shift the students to other school, so that their studies may not be affected and accordingly students were taken over and shifted to the other school. Since there is no document on record to show handing over the property to the Government, a direction for construction of new building may not be issued or if the petitioner can prove the title of the land is clearly with Government, as per the requirement, land would be used.

4. We have considered the submissions made by the counsel for the parties and find that while arguing the writ petition, the petitioner has initially shown intention to take care of the students who were pursuing their studies in



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the school, which otherwise was belonging to the Trust as per the revenue records. To take care of the students, the Government had transferred the students to other school. Thus, the initial argument though not forming or coming out in the prayer, it has already been redressed by the respondents. The writ petition was not filed with the intention to take care of the students, but to seek a direction for construction of a new building in the land, for which, even a civil suit is pending.

5. The intention in this public interest litigation does not seems to be in the interest of the students, but for different purpose. It is seeking a direction for construction of a building on a land which belongs to others as per the revenue records and that too under the circumstances when civil suit is pending. The intention of the petitioner cannot be said to be *bonafide* for filing of the writ petition with a prayer to seek a direction for construction of a new Government Primary School Building in a land, for which, title is not so clear. It cannot be said to be for the purpose and interest of the students and therefore, not only the writ petition is to be dismissed, but it is to be with costs. The jurisdiction of this Court in public interest litigation can be used only for public purpose which is not



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coming out. As per the records produced by the petitioner, the school was started in the year 1936 and was taken over in the year 1948 as per the information given under the Right to Information Act, 2005. There is no document about taking over the property. The record rather shows a civil litigation in regard to it. It was in knowledge of the petitioner, yet he filed the petition to seek direction for construction of a building.

6. For all the reasons stated above, the writ petition is dismissed with the costs of Rs.5,000/- (Rupees Five Thousand only) to be deposited by the petitioner within a period of fifteen days from today, to the State Legal Services Authority attached to the Madurai Bench of the Madras High Court, Madurai. In the absence of deposit, the disposed of writ petition would be listed before this Court to seek compliance and if it is not made, to issue notice for non compliance by taking into consideration the provisions of the Contempt of Courts Act.

[M.N.B., C.J.] [G.C.S., J.]
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Index : Yes / No
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