



W.P(MD)No.11253 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.11253 of 2014

and

M.P(MD)Nos.1 & 2 of 2014

M.Sundar

... Petitioner

Vs.

1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.

3.The Assistant Elementary Educational Officer,
Tirunelveli Urban Range,
Tirunelveli Town,
Tirunelveli.

4.The Tahsildar,
Tirunelveli Taluk,
Tirunelveli.

5.M.Balasubramanian

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 1 to 4 herein from in any way transferring the management of the Hindu Primary School, 14th Parvathaingaraja West Street, Tirunelveli, Tirunelveli District, at the instance of the fifth respondent herein.

For Petitioner : M/s.Ramsundar Vijayaraj
for M/s.C.Jeganathan

For R-1 to R-4 : M/s.J.John Rajadurai
Government Advocate

For R-5 : M/s.E.V.N.Siva

ORDER

The present Writ Petition has been filed for a Writ of Mandamus, forbearing the official respondents from in anyway transferring the Management of Hindu Primary School, 14th Parvathaingaraja West Street, Tirunelveli at the instance of the fifth respondent herein.

2. According to the learned Counsel for the petitioner, the said School is located in a property, which belongs to his father-in-law, namely, Petchimuthu. The said Petchimuthu was also acting as the approved Educational Agency of the said school. The petitioner has got



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married to the daughter of the said Petchimuthu. The petitioner's wife had passed away on 13.12.2011. Thereafter, according to the writ petitioner, he is entitled to the half share of his wife, which would devolve upon her on the death of his father-in-law, namely, Petchimuthu.

3. The learned Counsel for the petitioner further submits that the said Petchimuthu is alleged to have executed a registered settlement deed in favour of the fifth respondent herein with regard to the property, in which, the school building is located. The said Petchimuthu had passed away on 07.05.2013. Hence, according to the learned Counsel for the petitioner, he is entitled to half share in the said property and also he is entitled to participate in the administration of the said school. However, the fifth respondent herein on the basis of the said settlement deed is making a claim for the administration as well as the property of the school. Hence, he has filed the present writ petition to forbear the official respondents from transferring the school in the name of the fifth respondent herein.



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4. Per contra, the learned Counsel appearing for the fifth respondent herein has contended that immediately after the death of his daughter on 13.12.2011, the said Petchimuthu has executed a registered settlement deed in his favour on 06.03.2012. As per the said settlement deed, the property, in which, the school is located has been settled in favour of the fifth respondent herein. The learned Counsel for the fifth respondent further submitted that during his lifetime, the said Petchimuthu has signed in Form IV of the Tamil Nadu Private Schools Regulation Act and submitted the same before the educational authorities for transferring the Educational Agency from the said Petchimuthu in favour of the fifth respondent herein. The said application was jointly presented by the Petchimuthu and the fifth respondent herein on 02.05.2013. Thereafter, since the authorities did not consider the said Form IV, the fifth respondent has filed W.P(MD)No.4826 of 2014 before this Court for a Mandamus to consider the proposal of the petitioner, dated 02.05.2013. The said writ petition was disposed of on 19.03.2014, directing the authorities to dispose of the application within a period of six weeks.



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5. The fifth respondent herein further contends that the petitioner had filed O.S.No.36 of 2014 on the file of the Additional Sub Court, Tirunelveli for the relief of partition and separate possession of his half share as against the fifth respondent herein. The said suit was dismissed on merits on 28.07.2016 and the said judgment and decree have attained finality. Hence, viewed from any angle, the petitioner does not have any right, title or interest either over the Educational Agency or over the property, in which, the school building is located. That apart, Form IV presented by Petchimuthu and the fifth respondent is pending before the authorities. There cannot be a Mandamus as against the authorities from performing their statutory function of considering the said Form IV on merits. Hence, he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made on either side and perused the records.

7. It is an admitted case of both the parties that the Educational Agency and the property, in which, the school was located originally belonged to one Petchimuthu. The petitioner makes a claim on the



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ground that he is the son-in-law of the said Petchimuthu. During his lifetime, the said Petchimuthu had executed a registered settlement deed in favour of the fifth respondent herein on 06.03.2012. The said settlement deed was placed before the civil Court in O.S.No.36 of 2014 as a defence to the claim of partition made by the writ petitioner herein. The document was marked as Exhibit B2. After considering the settlement deed, the civil Court has dismissed the suit for partition filed by the writ petitioner herein, thereby denying the right of the writ petitioner to the half share in the property. That apart, during his lifetime, the said Petchimuthu has executed Form IV for transferring the Educational Agency in favour of the fifth respondent herein. Being the separate property of the said Petchimuthu, during the lifetime of Petchimuthu neither his daughter nor anyone will have any right over the Educational Agency or the school building. During his lifetime, he, having executed a settlement deed in favour of the fifth respondent herein and the same having been approved by the civil Court, I do not find, the petitioner has got any right in the property or the Educational Agency.



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8. In view of the above said facts, the petitioner cannot seek a Writ of Mandamus, restraining the authorities from considering the transfer application presented by the fifth respondent and the said Petchimuthu on 02.05.2013. The authorities are at liberty to proceed further and consider the transfer application presented by the fifth respondent on 02.05.2013.

9. With the above said observations, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

09.11.2022

Index : Yes / No
Internet : Yes / No
btr

To

1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The District Elementary Educational Officer,
Tirunelveli,
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R.VIJAYAKUMAR, J.

btr

3.The Assistant Elementary Educational Officer,
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4.The Tahsildar,
Tirunelveli Taluk,
Tirunelveli.

Order made in
W.P(MD)No.11253 of 2014

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