



W.P.No.6215 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.6215 of 2020

Seventh Day Adventist Matriculation
School,
Represented by its Principal,
No.79/249, GST Road,
Tambaram,
Chennai-600 045.

... Petitioner

versus

1.The Member-Secretary
Chennai Metropolitan Development
Authority,
Gandhi-Irwin Road,
Egmore, Chennai- 600 008.

2.The Commissioner,
Tambaram Municipality,
Chennai- 600 045.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the respondents to permit the petitioner to occupy and use the additional building of the petitioner school, pending decision of the Exemption Application submitted by the petitioner to the first respondent, under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 and pass orders.

For Petitioner	: Mr.R.Prabhakaran
For Respondents	: Mr.P.Srinivas, Standing Counsel for first respondent Mrs.P.Veena Suresh Standing Counsel for second respondent

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The writ petition is filed for a Mandamus, directing the respondents to permit the petitioner to occupy and use the additional building of the petitioner school, pending decision of the Exemption Application submitted by the petitioner to the first respondent, under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971 and pass orders.



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2. According to the petitioner, in the year 2017, he has construction class room by way of additional building without obtaining any permission from the competent authority. The second respondent issued stop work notice to the petitioner, for the unauthorized construction. Thereafter, the petitioner filed an application under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, before the first respondent for exemption and regularisation of the building. While so, one G.Anbuchezeian, has filed a writ petition before this Court in W.P.No.1414 of 2018, seeking a direction to the Government and Chennai Metropolitan Development Authority, to demolish the unauthorized construction put up by the petitioner. By order dated 06.08.2018, the Hon'ble Division Bench of this Court, has passed an order as follows:

"39. Considering the fact that the 7th respondent/School has put up the building without obtaining proper permission and that the prosecution initiated by the 3rd respondent/Municipality is pending in STC.No.65/2018, on the file of the Learned Judicial Magistrate No.I, Tambaram, and notwithstanding the fact that the 7th respondent/School's Application for Regularisation was returned and it is averred in the counter of 7th respondent School that the School is taking endeavours to resubmit



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the Application for Approval of the additional construction along with the particulars of other buildings, as required by the Authorities, this Court is of the considered view that the Third respondent/the Commissioner, Tambaram Municipality, has come with a categorical plea that the 7th respondent/school had not obtained the Building Permission for the construction of entire building and also had put up the Additional Construction, despite the application for permission being returned. Thereafter only, the 7th respondent/School had applied for Regularisation of the 'Building' and the Application is pending. Under these circumstances, this Court directs the Official Respondents, viz., Respondents 2 to 4 to act in unison in taking necessary action against the concerned violator and to take the same to its logical end, in accordance with Law. It is open to the concerned official respondent (from among respondents 2 to 4) to lock and seal the School Building and the Additional Construction put up by the School (Without obtaining necessary Planning permission), within one week from the date of receipt of copy of this order. Further, this Court orders that the 7th respondent/School shall not be put to use or occupation or any third party rights or encumbrance over the property shall be created. The concerned official respondent (from among R2 to R4) is directed to disconnect the water supply forthwith to the unauthorised portion of the School Building. Apart from that, the concerned official respondent (from among R2 to R4) shall inform the concerned Area Engineer of the TANGEDCO/Electricity Department, Kadaperi, West Tambaram, to disconnect the Electricity supply to the violated portion of the building of



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the 7th respondent/school forthwith. It is the primordial duty of the concerned respondents to ensure that the Building Completion Certificate is obtained by the 7th respondent/School Authorities. Before parting with the case, this Court abundantly makes it quite clear that it is open to the 7th respondent/School to pursue its remedy in respect of the Regularisation of the Building, as per Scheme 2017 of Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, before the Competent Authority, as per Law, Rules and Regulations, if it so desires/advised."

3. On a reading of the above order passed by the Hon'ble Division Bench, it is seen that liberty is granted to the petitioner to pursue its remedy in respect of the Regularisation of the Building, under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, before the Competent Authority.

4. Learned counsel for the petitioner has submitted that the petitioner has filed an application under Section 113-C of the Tamil Nadu Town and Country Planning Act, 1971, and the same is pending. Till such time seeks the aforesaid prayer.



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D.KRISHNAKUMAR, J.
and
P. DHANABAL, J.

(mrn)

5. We are not satisfied to grant such relief to the writ petitioner, as there is no merit in the writ petition. Consequently, the writ petition stands dismissed. There will no order as to costs. Consequently, W.M.P. No.7308 of 2020 is closed.

[D.K.K., J.] [P.D.B., J.]
28.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

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