



WEB COPY



W.P.No.28776 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.28776 of 2017
and
W.M.P.No.30951 of 2017

The Sindhu Seva Samithi Trust
rep. by its Secretary,
Mr.Palaniswamy,
S/o.Muthuswamy,
(Regd.No.37/2 Year 1992)
Saradha Vidhyalaya Matriculation
Higher Secondary School Campus,
S.F.No.119/1C4, 120/3B2,
Pandian Nagar, P.N.Road,
Tirupur Taluk, Tirupur District.

... Petitioner

Vs.

1. The Director,
Town & Country Planning,
O/o.Town & Country Planning,
No.807, Anna Salai, Chennai - 600 002.
2. The Member-cum-Secretary,
Tirupur Town & Country Planning Committee,
No.377, Kamarajar Salai,
Tiruppur - 641 604.



W.P.No.28776 of 2017

3. The Commissioner,
Tirupur Municipal Corporation,
Tirupur.

4. The Assistant Commissioner,
Zone - 2,
Tirupur Corporation, Tirupur.

5. Veluchamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the third and fourth respondents herein to conduct enquiry against the fifth respondent for putting up unauthorized construction in the land bearing S.F.No.119/1C2(4) and 119/1C3, Neruperunchal Village, Tirupur (North) Taluk, Tirupur District and initiate action in accordance with law considering the representation preferred by the petitioner dated 18.03.2016 in the light of the proceedings of the first respondent vide Na.Ka.No.5512/16/BA1, dated 20.04.2016 and second respondent vide No.284/2016/Town and Country Planning dated 04.04.2016 within the time frame that may be stipulated by this Court.

For Petitioner : Mr.M.Venkadeshnan

For Respondents : Ms.R.L.Karthika
Government Advocate
for R1 and R2



WEB COPY



W.P.No.28776 of 2017

Mr.Abishek Murthi
Government Advocate
for R3 and R4

Mr.K.Myilsamy for R5

Mr.G.Jayashuruthi
Advocate Commissioner

ORDER

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

The petitioner is running a private School in the name and style of Saradha Vidhyalaya Matriculation Higher Secondary School in the land in S.F.Nos.119/1C4 and 120/3B2, Pandian Nagar, P.N. Road, Tirupur Taluk, The petitioner is also the owner of the land in S.F.No.119 /1C2. The 5th respondent is the adjacent owner of the land in S.F.No.119/1C3. Since the 5th respondent dug a bore well in the cart track belonging to the petitioner the petitioner filed O.S.No.34 of 2016 on the file of the learned District Munsif, Tirupur, for a declaration of title and permanent injunction in respect of the land in S.No.119/1C2. The said suit is pending. Whiles, the 5th respondent has put up an unauthorised construction in his land adjoining to the petitioner's property.



W.P.No.28776 of 2017

WEB COPY

2.The learned counsel for the petitioner would submit that the 5th respondent has put up constructions in such a way that anybody from the 5th respondent construction could peep into the Girls Toilet in the school. The 5th respondent has put up construction without leaving any side set back and due to the height of the buildings, the girls studying in the said School were put to embarrassment. The petitioner had given a representation to the first respondent to take action against the 5th respondent. The first respondent forwarded the said complaint to the third respondent. Since no action was taken up, the petitioner has come out with the present Writ Petition.

3.The 2nd respondent filed their counter affidavit stating that the petitioner has not applied for building planning permission from the respondents 1 and 2 and in this regard, 1st respondent has directed the 2nd respondent to take action, who in-turn has directed the 4th respondent to take necessary action.

4.The 3rd respondent filed their counter affidavit and submitted that the 3rd respondent on receipt of complaint issued notice to the 5th



W.P.No.28776 of 2017

respondent calling upon the approved plan. The 5th respondent submitted an application to the first respondent and filed W.P.No.4586 of 2019 for a direction to consider the application for regularisation.

5.The 5th respondent filed counter on 27.03.2018 and submitted that before putting up construction, the 5th respondent has not obtained any permission. The 5th respondent has already submitted revised plan to the 2nd respondent and the same is pending.

6.At the time of hearing of the said Writ Petition, it was submitted by the learned counsel for the respondents 1 to 4 that the application of the petitioner was returned and this Court by order dated 03.09.2019 directed the 5th respondent to resubmit an application with all the required documents to the 2nd respondent as expeditiously as possible.

7.The learned counsel for the respondents 1 to 4 submitted that as per orders of this Court, the 5th respondent has not submitted his application till today and no proposal is pending relating to the revised



W.P.No.28776 of 2017

plan approval of the 5th respondent and also submitted with regard to the land in S.F.No.119/1C3, no proposal is pending.

8.The learned counsel for the respondents 1 to 4 submitted that the 5th respondent has put up unauthorised construction, without any approval, and the said building is the unauthorised building and the respondents 3 and 4 will take action to lock and seal the premises and prayed for passing suitable orders.

9.The learned counsel appearing for the 5th respondent submitted that before putting up construction, the 5th respondent has not obtained any permission and this Court permitted the 5th respondent to file an application for regularisation and requested time for submitting his application.

10.Heard Mr.M.Venkadesh, learned counsel for the petitioner, Ms.R.L.Karthika, learned Government Advocate for the respondents 1 and 2, Mr.Abishek Murthi, learned Government Advocate for the respondents 3 and 4, Mr.K.Myilsamy, learned counsel for the 5th respondent and perused the materials available on record.



W.P.No.28776 of 2017

WEB COPY

11.This Court by order dated 27.03.2018 appointed an Advocate Commissioner to inspect the property and to file a report.

12.The Advocate Commissioner has filed her report stating that if ventilators of girls toilets is open it is possible to peep into said toilets from the building of the 5th respondent.

13.From the materials on record, it is clear that the construction put up by the 5th respondent is without any approval or permission from the Authorities. The 5th respondent has filed an application to the first respondent for regularisation of the building plan and filed W.P.No.4586 of 2019. This Court by order dated 03.09.2019 had permitted the 5th respondent to submit an application along with all the relevant documents as per the list mentioned in the counter affidavit filed by the 2nd respondent in the said Writ Petition.

14.It is the case of the respondents 1 to 4 that till date the 5th respondent has not resubmitted the application. The 5th respondent also



W.P.No.28776 of 2017

WEB COPY

admitted that he has not re-submitted his application and consequently, taking advantage of the benefit of the order granted by the First Bench of this Court dated 03.09.2019 requested further time for filing fresh application.

15.In view of the above submission of the learned counsel for the parties and the Status Report filed by the respondents 1 to 4, it is clear that the building put up by the 5th respondent is unauthorised and there is every possibility of peeping into girls toilet of the petitioner's School from the unauthorised construction put up by the 5th respondent.

16.Considering the above, the respondents 3 and 4 are directed to take appropriate action to lock and seal and also for demolition of the unauthorised portion of the building put up by the fifth respondent.

17.The learned counsel for the respondents 3 and 4 submitted that the officials of the respondents 3 and 4 fixed the inspection today at 02.00 p.m. The respondents 3 and 4 are directed to take appropriate



W.P.No.28776 of 2017

WEB COPY

action after inspection including the demolition of the construction put up by the 5th respondent.

With the above direction, this Writ Petition is allowed. No costs.

(V.M.V., J) (V.L.N., J)
06.03.2023

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
mps

To

1. The Director,
Town & Country Planning,
O/o.Town & Country Planning,
No.807, Anna Salai, Chennai - 600 002.
2. The Member-cum-Secretary,
Tirupur Town & Country Planning Committee,
No.377, Kamarajar Salai,
Tiruppur - 641 604.
3. The Commissioner,
Tirupur Municipal Corporation,
Tirupur.
4. The Assistant Commissioner,



W.P.No.28776 of 2017

Zone - 2, Tirupur Corporation, Tirupur.

WEB COPY



WEB COPY



W.P.No.28776 of 2017

V.M.VELUMANI, J.

and

V.LAKSHMINARAYANAN, J.

mps

W.P.No.28776 of 2017

and

W.M.P.No.30951 of 2017

06.03.2023