



W.P(MD)No.6123 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6123 of 2015 and
MP(MD) No.2 of 2015

- 1.B.Thiyagarajan
- 2.B.Ramalingam
- 3.B.Ganga
- 4.C.Saraswathi @ Gowriammal
- 5.B.Kowsalya

...Petitioners

vas.

- 1.The Government of Tamilnadu,
Rep by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector,
Tiruchirappalli – 620 001.
- 3.The Director of Elementary Education,
College Road,
Nungampakkam,
Chennai – 600 034.
- 4.The Chief Educational Officer,
Tiruchirappalli.



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5.The District Elementary Education Officer,
MRC Complex, Sathuram Pillai Colony,
Tiruchirappalli – 620 001.

6.Lakshmi Nursery and Primary School,
Rep by its Correspondent,
Thiru.S.Lenin,
S/o.Late R.Subramanian,
8/3-14, Thanjavur Main Road,
Ariyamangalam,
Tiruchirappalli – 620 010.

...Respondents

(R6 substituted vide Court order dated 05.04.2023 by BPJ)

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 5 from issuing licence to the sixth respondent to run the school at Door No.8/3-14, situate in Survey No.160-A, Ulunthangadu, Ariyamangalam Village, Thanjavur Main Road, Ariyamangalam, Tiruchirappalli.

For Petitioner	: Mr.G.S.Asok Adhithyan
For R1 to R5	: Mr.G.V.Vairam Santhosh
	Additional Government Pleader
For R6	: M/s.T.Banumathy

ORDER

This writ petition is filed for a Mandamus, forbearing the respondents 1 to 5 from issuing licence to the sixth respondent to run the school at Door No.8/3-14, situate in Survey No.160-A,



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Ulunthangadu, Ariyamangalam Village, Thanjavur Main Road,
Tiruchirappalli.

2.The learned counsel appearing for the petitioners submits that the petitioners are the legal heirs of one Balasundaram Pillai. The said Balasundaram Pillai is the owner of the property in Survey No.160A to an extent of 23 cents in Ulunthangadu, Ariyamangalam Village, Thanjavur Main Road, Tiruchirappalli. The said Balasundaram Pillai died on 07.01.1986. Prior to his death, the said Balasundaram Pillai permitted the sixth respondent to run a Tuition centre in the above property. However, taking advantage of the same, the sixth respondent created a settlement deed, dated 06.12.1978, as if the petitioners' father (Balasundaram Pillai) has given this property to the sixth respondent and obtained a permission from the authorities concerned to run a Nursery School in the land in Survey No.160 A of Ulunthangadu, Ariyamangalam Village, Thanjavur Main Road, Tiruchirappalli. After the demise of the petitioners' father only, they came to know about the document



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created by the sixth respondent. Therefore, they have raised objections before the Educational authorities not to grant any licence to the sixth respondent to run the school in their land in Survey No. 160/A. However, the Educational authorities have not considered the petitioners' objections. Hence, the petitioners have approached this Court for a Mandamus, forbearing the respondents 1 to 5 from issuing any licence to the sixth respondent to run a School in Door No.8/3-14, situated in S.No.160/A.

2.1.The learned counsel further submits that since the petitioners/ the legal heirs of Balasundaram Pilla have raised certain objections with regard to the administration of the School, the sixth respondent has filed a suit in O.S.No.133 of 2010, as against the petitioners, for the relief of declaration and injunction, before the Additional District Court, Trichy. The petitioners have also filed a counter claim for recovery of possession. The suit in O.S.No.133 of 2010 was dismissed as against the relief claimed by the petitioner as well as the sixth respondent by the Judgment and decree dated



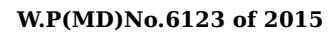
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16.04.2014. Challenging the same, the sixth respondent preferred an appeal before this Court in A.S.No.160 of 2014, which was dismissed as abated by this Court on 22.09.2022 that the appellant died on 03.10.2017.

2.2.The learned counsel further submits that the sixth respondent has filed a writ petition in W.P.(MD) No.4877 of 2009 and obtained an order for considering the application of the sixth respondent for renewal of recognition. The Educational Authorities have also extended the recognition.

3.The learned counsel appearing for the sixth respondent submits that the sixth respondent has also filed necessary application to set aside the order of abatement passed by this Court in A.S.No. 160 of 2014 along with a condone delay application and the same is yet to be numbered. Similarly, the petitioners filed an appeal in ASSR No.3541 of 2015, which is also yet to be numbered. While so, the sixth respondent has approached this Court in W.P(MD) No.



4. The learned Additional Government Pleader appearing
respondents 1 to 3 submits that they have granted permission
in respondent, in pursuance to the order of this Court in
No.4877 of 2009, dated 05.09.2012.



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5.This Court considered the rival submissions made on either side and perused the materials placed on record.

6.This writ petition was filed in the year 2015 and it is taken up for hearing only in the year 2023. According to the petitioners, their father has given the subject land to the sixth respondent for conducting a tuition centre. However, taking advantage of the same, the sixth respondent obtained permission from the Educational authorities to run a School, by creating a settlement deed, dated 06.11.1978, as if the petitioners' father settled the property in favour of the sixth respondent. Thereafter, the sixth respondent filed a writ petition in W.P(MD) No.4877 of 2009, without impleading the petitioners as parties and obtained an order for renewal of recognition for running the School. The order passed by this Court in W.P(MD) No.4877 of 2009 has not been challenged by the petitioners by filing appropriate application seeking leave of this Court to file an appeal. Hence, the order passed by this Court in W.P(MD) No.4877 of 2009 has become final. Moreover, the claim



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of the petitioner for recovery of possession and the claim of the sixth respondent for declaration of the subject lands in O.S.No.133 of 2010 was already negatived by the competent civil Court by its judgment and decree dated 07.10.2014. The appeals preferred by both the petitioner and the sixth respondent are at SR stage. The fact remains that the sixth respondent is running the School from the year 1985 and as on date, 200 students are studying in the School from LKG to V standard.

7.Considering the fact that the issue with regard to the title over the property is pending before this Court in appeal suits, this writ petition is disposed of with a liberty to the petitioners to work out their remedy in the appeal suits which are pending before this Court. No costs. Consequently, connected Miscellaneous Petition is closed.

18.04.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J.

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W.P(MD)No.6123 of 2015 and
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