



W.P(MD)No.22129 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22129 of 2021

and

W.M.P(MD)Nos.18715 & 18716 of 2021

Jessie RobinsonJacob

... Petitioner

Vs

1.The District Collector,
Office of Collectorate,
Kanyakumari.

2.The Tahsildar,
Taluk Office,
Thovalai,
Kanyakumari.

3.The Block Development Officer,
Thovalai,
Kanyakumari.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the third respondent vide proceedings Na.Ka.N.A4/3691/2013 dated 08.2021 quash the same and consequently directing to the respondents to remove the dilapidated Government School building situated in Survey No.344/6B, within the time frame that may be fixed by this Court.



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For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 & R.2

Mr.A.K.Manikkam
Special Government Pleader for R.3

ORDER

Heard the learned counsel on either side.

2.The petitioner's grandfather had donated land on which the petition mentioned Government School building has come up. The petitioner alleges that the building is in dilapidated condition and that its continued existence is unsafe for the children studying in the School. He therefore wants it to be taken down. The petitioner had earlier filed W.P(MD)No.8783 of 2021 in this regard. Vide order dated 12.07.2021, the writ petition was disposed of with the following direction:

“9.In the considered view of this Court, the petitioner had obtained only a decree for permanent injunction and not a decree for possession or mandatory injunction. Therefore, the petitioner cannot as a matter of right seek for the relief of direction to the respondents to remove the School. It will be left open to the respondents to take into consideration the



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representation made by the petitioner, on 05.09.2020 and to verify if the School building is in a very bad shape. Ultimately, the structure of the building must be safe, since it involves the precious lives of the students. If the respondents want to continue with the School, the same shall be informed to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. It will thereafter, be left open to the petitioner to work out his remedy before the competent Civil Court. If on the other hand, the respondents find that the structure is not safe and the students can be accommodated in the nearby Government Schools, such a decision can be taken and can be conveyed to the petitioner. The petitioner is directed to make a fresh representation in this regard to the third respondent along with a copy of this order.”

Pursuant to the said direction, the impugned order came to be passed rejecting the petitioner's request. Challenging the same the present writ petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



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4.The respondents have filed a detailed counter affidavit. The learned Special Government Pleader as well as the learned Additional Government Pleader took me through their contents. These are not matters which can be decided based on averments and counter averments. It is only the certificate of the competent authority that has to speak for himself. The Executive Engineer (District Rural Development Agency, Kanyakumari) after conducting inspection had certified that the structure of the building is in a good condition and the school building is safe to conduct classes. When the competent authority has come to the conclusion that the building in question is not unsafe, it is not for the writ Court to interfere in the matter. The impugned order is sustained. This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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