



WEB COPY



WP (MD) No. 8945 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

WP (MD) No. 8945 of 2016
and
WMP (MD) No. 7122 of 2016

Dhanalakshmi

... Petitioner

Vs

1. The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.

2. The District Elementary Educational Officer,
District Elementary Office,
Thallakulam, Madurai.

3. The Additional Elementary Educational Officer,
Madurai.

4. Chandra Devi

5. Vasanthameena

6. Umarani

7. Senthil Lakshmi

8. Kalaivani Nursery and Primary School,
Represented by its Correspondent R. Rukmani,
No. 106, Puttu Thoppu Main Road,
Madurai - 625 016.

... Respondents



WP(MD)No.8945 of 2016

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus directing the respondents 1 to 3 not to grant recognition or permission to run the 8th respondent School in Door.No.3, Periyasamy Konar Lane, Ponnagaram, Madurai based on the illegal lease deed dated 16.12.2015 entered into between the respondents 4 to 8.

For Petitioner : Mr.M.Saravanan
For Respondent : Mr.T.Vilavan Kothai,
No.1 to 3 Additional Government Pleader
For Respondent : No representation
Nos. 4 to 8

ORDER

This writ petition is filed for a mandamus directing respondents 1 to 3 not to grant recognition or permission to run the 8th respondent school in Door No.3, Periyasamy Konar Lane, Ponnagaram, Madurai based on the lease deed dated 16.12.2015.

2.The learned Counsel for the petitioner submits that the petitioner and respondent Nos.4 to 7 are sharers of the suit schedule property and other properties. A suit in OS.No.92 of 2006 was filed for partition, wherein



WP(MD)No.8945 of 2016

preliminary decree was passed in favour of the petitioner.

The appeal filed by respondent Nos.4 to 7, challenging the preliminary decree passed in OS.No.92 of 2006 was dismissed by confirming the preliminary decree. Subsequently final decree application was filed by the petitioner in IA.No.191 of 2008 in OS.No.92 of 2006 before the I Additional District Court, Madurai that the building in Door No.3, Periyasamy Konar Street, Ponnagaram, Madurai. Though this building has been allotted in favour of the petitioner, respondent Nos.4 to 7 are occupying the premises and a school is also run in the building. Despite the final decree, respondent Nos.4 to 7 entered into a lease agreement with 8th respondent, as if they are the owners. Therefore the petitioner has filed this writ petition.

3.The learned Additional Government Pleader appearing for respondent Nos.1 to 3 based on the written instructions submits that 8th respondent school was originally functioning at Door No.106, Puttuthoppu, Madurai - 16 and it was shifted to Door No.3, Periyasamy Konar street, Ponnagaram, Madurai on 01.06.2016. The District Educational



WP(MD)No.8945 of 2016

Officer by his proceedings Moo.Mu.4505/Aa1/2020, dated 16.12.2020 granted recognition to the 8th respondent school only upto 14.11.2015 and thereafter, no permission was granted. However the learned Additional Government Pleader submits that 8th respondent school is functioning in Door No.3, Periyasamy konar street, Madurai with effect from 01.06.2016. The learned Additional Government Pleader also produced the judgment and decree obtained by the 8th respondent in OS.No.357 of 2016.

4.In response to the above, the learned Counsel appearing for the petitioner submits that the suit in OS.No.357 of 2016 is a collusive suit filed by the 8th respondent arraying respondents 4 to 7 alone, without arraying the petitioner as a party, being owner of the suit property and therefore, the decree is not binding on the department.

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



WP(MD)No.8945 of 2016

6.Though notice was served on respondents 4 to 8, there is no representation for respondents 4 to 8.

The petitioner claims to be the owner of the subject property, pursuant to the final decree passed in IA.No.191 of 2008 by the I Additional District Court, Madurai. The Department claims that they have granted permission to the 8th respondent school only upto 14.11.2015 and they have not granted any further permission after 14.11.2015 for the changed place at Door.No.3, Periyasamy Konar street, Ponnagaram, Madurai. Therefore, this Court is not inclined to pass any further orders in this writ petition at this stage.

7.In the result this writ petition is disposed of with liberty to the petitioner to workout his remedy before the civil Court. No Costs. Consequently connected miscellaneous petition stands closed.

16.02.2023

DSK

To

5/7



WP(MD)No.8945 of 2016

- 1.The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
- 2.The District Elementary Educational Officer,
District Elementary Office,
Thallakulam, Madurai.
- 3.The Additional Elementary Educational Officer,
Madurai.



WEB COPY



WP (MD) No. 8945 of 2016

B. PUGALENDHI, J.

dsk

WP (MD) No. 8945 of 2016

16.02.2023