



W.P(MD)No.27791 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.27791 of 2023
and
W.M.P(MD)Nos.23896 & 24376 of 2023**

S.Kaviyarasu

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Youth Welfare and Sports Development Department,
Secretariat,
Chennai.

2.The Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar,
Raja Annamalaipuram,
Chennai - 600 028.



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3.The District Collector
Office of Collectorate,
Thanjavur District.

4.The Commissioner
Karur Municipal Corporation,
Karur.

5.U.Shankar,
President of Vasagarvattam of
District Central Library,
Karur.

... Respondents

(Respondent No.5 is impleaded as per the order
of this Court, dated 01.12.2023 made in 24376
of 2023)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the fourth respondent from carrying out construction of library building permanently at Thiruvalluvar play ground situated at Karur Corporation by considering petitioner's representation, dated 14.10.2023 within time frame fixed by this Court.



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For Petitioner : Mr.Mahaboob Athiff

for Mr.V.A.Dhana Aravindha Balaji

For Respondents : Mr.P.Thilak Kumar – for R1 to R3

Government Pleader

Mr.K.Balasubramani – for R4

Standing Counsel

Mr.K.Suresh – for R5

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Heard Mr.Mahaboob Athiff, learned counsel representing Mr.V.A.Dhana Aravindha Balaji, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader appearing for respondents 1 to 3, Mr.K.Balasubramani learned Standing Counsel appearing for the fourth respondent and Mr.K.Suresh, learned counsel appearing for the fifth respondent.

2. The learned counsel for the petitioner submits that the lands in Survey Nos.3026 and 3027/B3 are reserved for playground. The respondents are now constructing library building upon the same.



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3. According to the learned counsel, the same is constructed without permission of the Government. The construction of a park or playground is not permissible under the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959. No permission has been obtained under the Act from the Government. The administrative and technical sanction cannot cure the defect of non-grant of sanction under the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959.

4. The learned Government Pleader for respondents 1 to 3, learned Standing Counsel for the fourth respondent and the learned Advocate for the impleading applicant submits that the construction is carried out on the same foundation in the place where earlier Rajalingam Mandram was existing. No extra construction is made. The necessary administrative and technical sanction has been obtained.

5. According to the petitioner, the said Rajalingam Mandram was used for the children playing in the playground to store their bags and playing articles.



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6. According to the learned counsel for the respondents, the revenue record shows Survey No. 3027/3B as Rajalingam Mandram.

7. It appears that under G.O.(Ms)No.158, the area of 3 acres 43,359 square feet in Sruvey Nos.3026 and 3027/B3 is meant for playground, namely, Thiruvalluvar playground.

8. Section 6 of the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959 states that no park, play-field or open space specified in the list published under Section 4 or 5 shall, except with the previous sanction of the Government, be used for any prupose other than the purpose or purposes for which it was used on the date of the coming into force of the Act.

9. The library building is sought to be constructed in the said land bearing Survey No.3027/B3. The purpose certainly, is a public purpose, as a library is not meant for individual or for a commercial purpose. However, at the same time, the provisions of law will have to be adhered to. The Government can grant sanction for construction of library on the said premises. The respondent authority



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shall seek sanction of the Government before proceeding further with the construction. In case, the Government can grant sanction, there would be no impediment for the respondents to proceed with the construction of the library.

10. Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition in W.M.P(MD)No. 23896 of 2023 is closed. W.M.P(MD)No.24376 of 2023 is disposed of.

[S.V.G., C.J.]

[L.V.G., J.]

01.12.2023

Index : Yes / No
Neutral Citation : Yes / No

RM

Note : Registry is directed to carry out necessary amendment in the cause title.



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THE HONOURABLE CHIEF JUSTICE
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