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W.P.No.6999 of 2023



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 17.04.2024

CORAM:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR  
and  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**W.P.No.6999 of 2023**

H.Haroon  
...Petitioner

vs.

- 1.The District Collector,  
Thiruvarur District at Thiruvarur.
- 2.The Assistant Director of Town Panchayat,  
Tanjavur Zone,  
Office of the District Collector, Tanjavur.
- 3.The Executive Officer,  
Muthupettai Town Panchayat,  
Thiruvarur District.
- 4.The President,  
Tamil Nadu Thavheed Jamath,  
Muthupettai Branch,  
Opp. to New Bus Stand,  
Rahmat Nagar, Muthupet,  
Thiruvarur District – 614 704.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to forthwith resort to initiation of appropriate action against the 4<sup>th</sup> respondent premises in Survey No.114/9, 1149Q situate at Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur District in view of there having



occurred violation/deviation in the construction beyond planning permission and to bring the building within the parameters of the planning permission thereto on merits.

For Petitioner : Mr.L.Chandrakumar  
For Respondents : Mr.G.Nanmaran, for R1 to R3  
Special Government Pleader  
Mr.R.Abdul Mubeen for R4

### **ORDER**

**(Order of the Court was made by S.S.Sundar, J.)**

This is a vexatious Writ Petition filed without any cause of action.

The petitioner has filed the above Writ Petition for issuance of Mandamus seeking to direct the respondents 1 to 3 to forthwith resort to initiation of appropriate action against the fourth respondent premises in S.Nos.114/9 and 1149Q situated at Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur District.

2.The petitioner stated that the fourth respondent has constructed a prayer hall and indulged in commercial activities by conducting religious functions. It is pertinent to mention that earlier the petitioner filed a Writ Petition in W.P.No.688 of 2022 for issuance of a Writ of Mandamus to direct the official respondents to initiate appropriate action against the fourth respondent's construction in Survey Nos.114/9 and 1149Q situated at Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur



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3. Even earlier the case of petitioner is that the fourth respondent has been granted planning permission for the residential purpose and he is using the premises in violation of the planning permission originally granted. This Court after hearing the petitioner as well as the official respondents passed the final order after taking note of the earlier judgment passed by this Court in W.A.No.1636 of 2017 dated 19.12.2017.

4. It is to be noted that an affidavit of undertaking was given by the fourth respondent that he will use the building only for the residential purpose and that the building will not be used for any religious or commercial purposes. Based on the undertaking, the official respondents had desealed the premises. It is on account of the fact recorded by this Court, the Court dismissed the Writ Petition as no further order was necessary to be passed.

5. With the identical prayer and similar allegations, the petitioner has filed the present Writ Petition.

6. The third respondent has filed a status report before this Court to



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the effect that the building is not used by the fourth respondent for any commercial or religious purpose.

7.As a matter of fact, the third respondent had indicated that the fourth respondent had closed the building and therefore, the building is not used for any purpose when the status report was filed.

8.Since the building is kept vacant by the fourth respondent, the third respondent indicated that the fourth respondent has not violated the undertaking given by him before this Court. It is in the said circumstances, the averments and affidavit filed in support of the Writ Petition are false and made with ulterior motive and this Court is unable to find any cause of action to file the present Writ Petition with the identical prayer.

9.Even if the fourth respondent has violated the undertaking given before this Court, it may be open to the petitioner to file a Contempt Petition. However, the petitioner cannot be permitted to reagitate the issues which will cause inconvenience to the Court and also to the parties.

10.Therefore for want of merits, this Writ Petitioner is liable to be dismissed with exemplary cost.



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11.The learned counsel for the petitioner however states that the fourth respondent has put up construction without any planning permission. The petitioner in the earlier Writ Petition came forward with the same case that the fourth respondent had been granted planning permission for residential purpose. The statement of the petitioner is recorded in paragraph No.2 of the aforesaid order which is extracted hereunder:

*“2.It is the case of the petitioner that the fourth respondent has been granted with the planning permission for residential purposes which he in violation of the said planning permission has been using it as a prayer hall and for other commercial activities”*

12.The learned counsel made a submission that earlier the planning permission which was obtained for construction of residential purpose by the fourth respondent was cancelled as the 4<sup>th</sup> respondent had constructed a prayer hall/madarasa instead of residential building.

13.The learned counsel for the petitioner relied upon the proceedings of the District Collector dated 25.06.2018. However, this



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Court finds that the portion of the order relied upon by the petitioner's counsel may not be relevant since this Court had passed subsequent order recognizing the petitioner's construction for residential purpose as authorized. Therefore, the petitioner cannot now rely upon the observation or the findings of the District Collector or the reference in the order of the District Collector to the effect that the approval granted was rejected. The official respondents before this Court have not stated so in their counter affidavit. Assuming that the approval granted to the 4<sup>th</sup> respondent was cancelled, the order of cancellation cannot be taken as valid. The petitioner has relied upon the order or the proceedings of the District Collector which was contrary to the earlier order passed by this Court in W.P.No.668 of 2022. Therefore, the observations of the District Collector cannot give right or cause of action for filing another Writ Petition with similar prayer.

14.This is a vexatious Writ Petition filed by the petitioner. Therefore, the writ petition stands **dismissed with cost.** The petitioner is directed to pay a cost of Rs.10,000/-. (Rupees Ten thousand only) payable in favour of the District Administration in any account as may be suggested by the District Collector. It is open to the District Collector to immediately disburse the said amount to any eligible Government School



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or School run by the Local Body in the nearby vicinity for any legitimate expenses as may be suggested by the Headmaster or Headmistress concerned.

(S.S.S.R.,J.) (N.S.,J.)  
17.04.2024

Index: yes/no  
Speaking order:yes/no  
Neutral Citation:yes/no  
pam

To

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