



W.P.No.18012 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.18012 of 2021

and

W.M.P.No.19247 of 2021 & 19434 of 2024

1.J.Perumal (Deceased)

2.P.Praveen Kumar

... Petitioners

[P2 substituted as LR of deceased P1 vide
order dated 13.06.2024 in W.M.P.No.16940 of 2024
in W.P.No.18012 of 2021]

Vs.

1.The Director,

Directorate of Matriculation Schools,
Chennai – 600 006.

2.The Zonal Officer (Zone – III),

Greater Chennai Corporation,
No.1, Thattakulam Street,
Bazaar Road, Madhavaram, Chennai – 600 060.

3.The Assistant Engineer,

Greater Chennai Corporation,
Division No.26, Zone – 3,
5th Street, F Block, Thanikachalam Nagar,
Chennai – 600 110.

4.The Assistant Executive Engineer,



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Greater Chennai Corporation,
Division No.26, Unit – 7,
5th Street, F-Block, Thanikachalam Nagar,
Chennai – 600 110.

5.The Executive Engineer,
Greater Chennai Corporation,
5th Street, F-Block, Thanikachalam Nagar,
Chennai – 600 110.
[R2 to R5 impleaded vide order dt. 07.09.2021
made in W.M.P.No.20196 of 2021 in W.P.No.18012 of 2021]

6.The Additional Secretary (Technical),
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
[R6 impleaded vide order dt. 15.07.2024 in
W.M.P.No.19427 of 2024 in W.P.No.18012 of 2021]

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in proceedings of 2nd respondent in Z.O.III.C.No.1995/4/2021 dated 16.07.2021 and Z.O.III.C.No.1995/5/2021 dated 02.08.2021 and set aside the same and quash the consequential impugned proceedings of 1st respondent in Na.Ka.En.2857/AA2/2021 dated 09.08.2021 as incompetent, tainted, without jurisdiction. [prayer amended vide order dated 07.09.2021 made in W.M.P.No.20201 of 2021 in W.P.No.18012 of 2021]

For Petitioners : Mr.V.Raghavachari
Senior Counsel
for Mr.N.Elayaraja

For Respondents : Ms.E.Ranganayaki
Additional Government Pleader [R1]
M/s.P.T.Ramadevi



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Standing Counsel [R2 to R5]
Mr.L.S.M.Hasan Fizal
Additional Government Pleader [R6]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records in proceedings of 2nd respondent in Z.O.III.C.No.1995/4/2021 dated 16.07.2021 and Z.O.III.C.No.1995/5/2021 dated 02.08.2021 and set aside the same and quash the consequential impugned proceedings of 1st respondent in Na.Ka.En.2857/AA2/2021 dated 09.08.2021 as incompetent, tainted, without jurisdiction.

2. The case of the petitioners is that, Baby Kings Educational and Charitable Trust was founded in the year 1992 and educational institution was started in the name and style Kings Matriculation Higher Secondary School at No.85, Villivakkam Road, Kalpalayam, Kolathur, Chennai – 600 099. Subsequently, a new building was constructed in the year 2007 to accommodate growing students strength. At that time, Madhavaram was under Municipality Corporation Limit and Ground + 1st Floor



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approval was obtained from the concerned authorities. However, for future development, second and first floor along with students hostel for boarding was also erected. In the year 2008, +1 opening order was obtained from the school education department and subsequently, got the approval for +2 in the year 2009. On 22.04.2021, the Corporation Officials had issued Notice.44/DN/26/2021 to the school calling for approved plan. The 1st petitioner submitted a letter dated 06.05.2021 to AE, AEE along with G+1 approved plan for the school building and also stated that they had started the process of regularizing the building under Government Regularization Scheme. Subsequently, the Corporation Officials has issued another Notice No.07/DN/26/2021 dated 12.05.2021 for Lock and Seal of the school premises. On receiving the said notice, deceased 1st petitioner had also sent a request letter to the Commissioner of Greater Chennai Corporation dated 31.05.2021 asking for sufficient time due to Covid outbreak to comply with the norms and the copy was also sent to Zonal Officer, AE, AEE and EE of Zone 3 (Madhavaram). At the outset, discontinue occupation Notice No. /1/DN/26/2021 dated 09.07.2021 was sent by the Corporation Officials in respect of the School Building. Thereafter, the deceased 1st petitioner had filed an appeal and



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stay application before the Secretary to Government, Housing and Urban Development on 19.07.2021 and the same was sent to the respondents and copy was also sent to the respondent. On 17.08.2021, the deceased 1st petitioner received closing order from the 1st respondent in proceeding 2857/A2/2021 dated 09.08.2021 instructing the Chief Educational Officer (Tiruvallur) to take necessary steps to close down the running educational institution. This proceeding was passed by 1st respondent based on the earlier letter sent by the 2nd respondent on 16.07.2021. However, the deceased 1st petitioner had filed the appeal and stay application before the 6th respondent on 19.07.2021. Without perusing the same, the 1st respondent had passed the closing order. On 18.08.2021, the deceased 1st petitioner had given a letter to the 1st respondent explaining about appeal and stay proceedings, however, 1st respondent did not take up the representation and initiated an adverse action of closing down a running educational institution. Hence, the present writ petition has been filed before this court.

3. Learned Senior Counsel appearing for the petitioner submits that the deceased 1st petitioner has two sons, namely P.Praveen Kumar/2nd



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petitioner and P.Prem Kumar and after the death of the 1st petitioner, the 2nd petitioner has taken over charge of the school, which was started by the 1st petitioner. There was a property dispute in between the petitioners and the said Prem Kumar was residing in London and he made a representation before the Corporation authorities as if the 1st petitioner encroached the government property and made unauthorized construction contrary to the planning permission granted by the Madhavaram Municipality and subsequently, the area in which the school was situated merged with the Chennai Corporation. Thereby, the Chennai Corporation issued a notice u/s 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (in short 'the Act'), pursuant to which, the educational authorities/1st respondent passed the present impugned order dated 09.08.2021. As against the proceedings of the Chennai Corporation u/s 56 and 57 of the Act, 1st petitioner preferred an appeal u/s 80A of the Act before the 6th respondent and the 6th respondent dismissed the appeal. Hence, this Court may grant liberty to the petitioner to challenge the impugned order passed by the 6th respondent in the manner known to law by way of separate writ petition. He further submitted that the 1st respondent has no authority to pass orders of lock and seal. Admittedly,



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the 1st respondent granted recognition for running the said school and if there is any violation on the basis of the recognition, he has power to issue notice and thereafter, conduct enquiry and pass appropriate orders. However, without conducting any enquiry, the present impugned order has been passed based on the order passed by the Corporation, which is wholly unsustainable. Accordingly, he prays for allowing the writ petition.

4. Learned respective counsel appearing for the respondents submitted that though no reasons have been given in the impugned order passed by the 1st respondent, however, this court may grant liberty to the 1st respondent to pass fresh orders, after the completion of 80A proceedings.

5. Mr.Elamvazhudi, learned counsel appearing for the Prem Kumar, submitted that, though the said Prem Kumar is the second son of the deceased 1st petitioner, however, after the death of the 1st petitioner, the 2nd petitioner impleaded himself as legal heir of the 1st petitioner, which is not sustainable. Further, without impleading the said Prem



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Kumar, prosecuting the present writ petition is not sustainable, since the said Prem Kumar is one of the legal heirs of the 1st petitioner. However, he submitted that liberty may be granted to Prem Kumar to workout his share in the manner known to law by filing the civil suit before the appropriate forum.

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. Admittedly, there was a property dispute in between the petitioners and one Prem Kumar, who is the 1st son of the 1st petitioner and elder brother of the 2nd petitioner and based on the dispute between themselves, the said Prem Kumar sent a complaint to the Chennai Corporation, pursuant to which, Chennai Corporation passed an order u/s 56 & 57 of the Act, as against which, the 1st petitioner preferred an appeal before the 6th respondent u/s 80A of the Act and the said appeal was rejected. In view of the above, the 2nd petitioner ought to have filed a separate writ petition challenging the order passed by the 6th respondent and he cannot canvass all those points in the present writ petition. Hence,



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the amendment sought for the petitioner cannot be granted. **Accordingly, the petition in W.M.P.No.19434 of 2024 is dismissed.** However, liberty is granted to the 2nd petitioner to challenge the order passed in the appeal u/s 80A of the Act by the 6th respondent by way of separate proceedings in the manner known to law.

8. Further, based on the order passed by the Chennai Corporation, the 1st respondent passed the impugned order dated 09.08.2021, however, the impugned order is bereft of any details. Before the completion of the proceedings initiated as against the 1st petitioner by the Corporation, the 1st respondent has no power to pass the present impugned order. Hence, the impugned order is liable to be set aside.

9. Accordingly, the impugned order dated 09.08.2021 passed by the 1st respondent is set aside and the Writ Petition is allowed. However, liberty is granted to the 2nd respondent to initiate fresh proceedings after the finality of the proceedings initiated by the Chennai Corporation and the said Prem Kumar is at liberty to workout his remedy before the civil court in the manner known to law. No costs. Consequently, the connected



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miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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M.DHANDAPANI, J.

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