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W.P.(MD)NO.16711 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16711 of 2020 AND

W.M.P.(MD)No.13957 of 2020

The Chairman,

RVS Educational Trust,

R.V.S.Nagar, Old Karur Rod,

N.Paaraipatti Road,

Dindigul – 624 005.

... Petitioner

Vs.

1. The State of Tamil Nadu,

Rep. by its Secretary,

Department of Revenue(Land Ceiling),

Fort St. George, Chennai – 600 009.

2. The Deputy Director of Town & Country Planning,

4, Hakkim Ajmalkhan Road, Chinnachokikulam,

Madurai,

Madurai District – 625 002.

3. The President / District Collector,

Dindigul Local Planning Authority,

Dindigul, Dindigul District.



4. The Sub Collector,
Palani, Dindigul District.

5. The District Revenue Officer,
Dindigul, Dindigul District.

6. The Tahsildar,
Vedasanthoor,
Dindigul District.

7. The Assistant Commissioner,
(Land Reforms),
Plot No.4, D.No.15,
East Cross 1st Street,
(Near MIOT Hospital),
K.K.Nagar – 625 020, Madurai District.

8. The Block Development Officer(Rural),
Vadamadurai Panchayat Union,
Dindigul District.

9. The President,
Kulathoor Village,
Kulathoor Panchayat Union,
Vedasanthoor Taluk,
Dindigul District.

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 8th respondent Block Development Officer in Na.Ka.No.557/2018/Thi 1 dated 26.02.2020 and quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar,
for M/s.Isaac Chambers.
For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

* * *

ORDER

Heard both sides.

2. The writ petitioner is an educational trust. It had put up buildings in the petition-mentioned lands during the period from 1983-2006. The eighth respondent issued the impugned communication dated 26.02.2020 proposing to lock and seal the premises. Challenging the same, the present writ petition came to be 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



communication and grant the relief as prayed for.

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4. The learned Special Government Pleader appearing for the respondents submitted that the buildings have been put up on what have been classified as agricultural lands (Nanja lands). Reclassification order has not been obtained from the District Collector. Therefore, he submitted that the impugned order was rightly issued and that it has not been warranted interference. He prayed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. My attention is drawn to the order dated 24.11.2020 made in WP(MD) No.16712 of 2020. The prayer in the writ petition reads as follows:

“ This petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent District Collector to pass appropriate order for issuance of NOC for the constructions made in petitioner's land for education



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purpose at survey Nos.416/1, 416/2, 416/3, 416/4, 416/5, 416/6, 416/7, 416/8, 416/9, 970, 972/1, 977/1a, 977/2, 977/3a, 977/3b, 977/3c, 978/1, 978/2, 978/3 at Kulathoor Village, Vedasanthoor Block, Dindigul District by considering petitioner`s application dated 21.09.2017 together with the recommendation for the 6th respondent, Thasildar, Vedasanthoor, in Na.Ka.No. 715/2019/Aa3 dated 01.02.2019.”

7. The Court directed the authorities to consider the petitioner's application for issuance of NOC. It is stated that the enquiry was conducted and the Revenue Divisional Officer, Palani had favourably recommended the petitioner's request. The agricultural Department had also stated that since the lands do not have any irrigation facility, the agricultural activities cannot be profitably carried out and the other officials have also issued certificates in favour of the petitioner.

8. More than anything else, the buildings were put up by the petitioner only after getting approval from the local body. It is also seen



that the eighth respondent had invoked the power conferred under Section 56 of the Tamilnadu Town and Country Planning Act. The buildings are located in Kulathoor Village. Only on account of Section 47A of the Tamil Nadu Town and Country Planning Act, 1971, the provisions of the Act came to be extended to the non planning areas. Section 47A came into force only on 01.01.2011. The buildings in question were put up prior to the extension of the Act to Kulathoor Village. The petitioner had obtained approval from the local body. My attention is drawn to the order dated 01.03.2023 made in WP(MD) No. 28033 of 2022. Paragraph No. 3 of the said order reads as follows:

“3. It is seen from the records that the buildings in question were put up way back in the year 1996. The petitioner had obtained building plan approval from the local body on 10.09.1996. During the relevant time, there was no stipulation that approval must be obtained from the Director of Town and Country Planning. Such requirement was introduced only in the year 2011 following the introduction of



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Section 47(A) of the Tamil Nadu Town and Country Planning Act, 1971. It has been held in more than one decision that this requirement will operate only prospectively. During the year 1996, the parties were not governed by Tamilnadu Panchayat Building Rules, 1997. Even under the said rules, the executive officer of the local body was to grant approval after consultation with the Joint Director of Town and Country Planning. This requirement of having prior consultation before issuing planning approval was an inter-departmental affair. The learned senior counsel points out that the buildings in question were put up pursuant to the building approval granted in the year 1996 that is even before the introduction of Tamil Nadu Panchayat Building Rules, 1997. Therefore, I am more than satisfied that the reason for returning the proposal in question is not justified or reasonable."



9. The case on hand is similar. Taking note of the developments that have taken place during the pendency of the writ petition and the fact that the buildings were put up only after getting approval from the local body and particularly, in view of the fact that the cause of action had arisen before the extension of section 47A of the Act, the impugned communication is set aside. The writ petition stands allowed . No costs. Consequently, connected miscellaneous petition is closed.

11.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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To:

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Department of Revenue(Land Ceiling),
Fort St. George, Chennai – 600 009.
2. The Deputy Director of Town & Country Planning,
4, Hakkim Ajmalkhan Road, Chinnachokikulam,
Madurai, Madurai District – 625 002.
3. The President / District Collector,
Dindigul Local Planning Authority, Dindigul, Dindigul District.
4. The Sub Collector,
Palani, Dindigul District.
5. The District Revenue Officer,
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G.R.SWAMINATHAN,J.

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