



WEB COPY

W.P.No.8123 & 8115 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

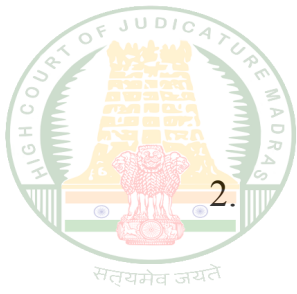
W.P.Nos.8123 & 8115 of 2025
and
W.M.P.Nos.9086, 9089 & 9091 of 2025

Congregation of the Regular Tertiary Franciscan
Sisters of Our Lady of Bon Secours,
Represented by its President,
Bon Secours Convent,
Matha Church Road,
Mylapore, Chennai - 600 028. ... Petitioner in W.P.No.8123 of 2025

Regular Tertiary Franciscan Sisters of Our
Lady o Bon Secours-Society No.I,
Represented by its President,
Bon Secours Convent,
No.153(Old No.131), T.T.K.Road,
Alwarpet, Chennai - 600 018,
Chennai District. ... Petitioner in W.P.No.8115 of 2025

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Housing and Urban Development,
Fort St.George,
Chennai - 600 009.



WEB COPY

W.P.No.8123 & 8115 of 2



2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Poonamallee High Road,
Chennai - 600 003.
3. The Chief Executive Officer,
The CMDA,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
4. The District Collector,
Chennai Collectorate,
Fourth Floor, M.Singaravelar Maaligai,
No.62, Rajaji Salai,
Chennai - 600 001.
5. Commissioner of Police,
The Office of the Commissioner of Police,
No.32, EVK Sampath Road,
Periamet,
Vepery, Park Town,
Chennai - 600 007.
6. MGM Health Care Pvt. Ltd.,
Represented by its Project Manager,
New No.72, Old No.54,
Nelson Manickam Road,
Aminjikarai,
Chennai - 600 029. ... Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of Certiorarified mandamus, calling for the records pertaining to the impugned planning permission dated 23.02.2024 in OL-



W.P.No.8123 & 8115 of 2025

PP/HRB/0004/2024 in Permit No.OL-00773, on the file of the 3rd respondent and quash the same, to ensure the life and safety of persons and properties in the petitioner campus, due to the construction of the 6th respondent building.

(in W.P.No.8123 of 2025)

For Petitioner	: Dr.Father Xavier Arul Raj Senior Counsel for M/s.Father Xavier Associates
For Respondents	: Mrs.E.Ranga Nayaki Additional Government Pleader for R1 and R4 : Mr.P.Kumaresan Additional Advocate General assisted by Mr.D.B.R.Prabu Standing Counsel for R2 and Mr.C.Manoharan Standing Counsel for R3 : Mr.M.Babu Muthu Meeran Additional Public Prosecutor for R5 : Mr.Abishek Janasenan for R6

(in W.P.No.8115 of 2025)

For Petitioner	: Dr.Father Xavier Arul Raj Senior Counsel for M/s.Father Xavier Associates
For Respondents	: Mrs.E.Ranga Nayaki Additional Government Pleader for R1 and R4



WEB COPY

W.P.No.8123 & 8115 of 2



: Mr.P.Kumaresan
Additional Advocate General
assisted by
Mr.D.B.R.Prabu
Standing Counsel for R2
and Mr.R.Thamaraiselvan
Standing Counsel for R3

: Mr.M.Babu Muthu Meeran
Additional Public Prosecutor for R5

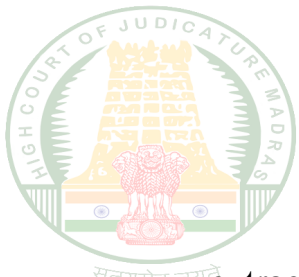
: Mr.Abishek Janasenan for R6

COMMON ORDER

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

The Building Plan Permission dated 23.02.2024 is under challenge in the present writ proceedings.

2. The learned Counsel for the petitioners would submit that the petitioners have taken a decision to demolish and reconstruct the building in accordance with the Building Plan Permission to be sanctioned by the Corporation. In this regard, a memorandum of understanding has been entered into between the parties to demolish the School building and reconstruct the same by obtaining fresh Building Plan Permission.



W.P.No.8123 & 8115 of 2



3. The scanned copy of the said memorandum of understanding is extracted hereunder:

WEB COPY

भारतीय नैर न्यायिक
एक सौ रुपये **Rs. 100**
रु. 100 **ONE HUNDRED RUPEES**
भारत INDIA
INDIA NON JUDICIAL

தமிழ்நாடு தமிர்நாடு TAMILNADU **DK 481050**
17 MAR 2025 *Bon Secours Society*
S MANJULAMAHESWARI
STAMP VENDOR
L. No 10037 / 76
High Court Campus Chennai 10A

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is executed on 18th day of March, 2025 at Chennai,

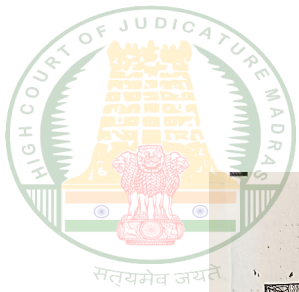
BETWEEN

M/s. MGM Heath Care Pvt.Ltd, Company registered under the Companies Act, represented by its Managing Director Mr.M.K.Raja Gopalan, having office at New No.72, Old No.54, Nelson Manickam Road, Aminjikarai, Chennai – 600 029, herein after referred to as the **First Party**, which expression shall unless repugnant to the context mean and include his/her heirs, successors, legal representatives, executors, administrators and assigns.

S. Raja Pillai
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO 1
ALWARPET, CHENNAI-600 018.

[Signature]

Page 1 of 9



WEB COPY



कुछिना 6 तमिलनाडु TAMILNADU
7 MAR. 2025 Bon Secours Society
DK 481051
S. MANJUNATHAN MAHESWARI
SEALING OFFICER
10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
High Court Building, Chennai - 100

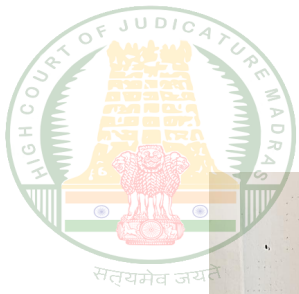
AND

"Congregation of the Regular Tertiary Franciscan of Our Lady of Bon Secours" a registered society, having Reg. No.100 of 1956, and "Regular Tertiary Franciscans Sisters of Our Lady of Bon Secours-Society No. 1", a registered society, having Reg. No.119 of 1973, both the societies being represented by its President Rev. Sr. Maria Philomi, having office at Bon Secours Convent, Matha Church Road, Mylapore, Chennai – 600 028, hereinafter referred to as the **Second Party**, which expression shall unless repugnant to the context mean and include his/her heirs, successors, legal representatives, executors, administrators and assigns.

Whereas the First Party is an educational and medical Private Ltd company, running medical colleges and hospitals, with the noble objects

Sr. Maria Philomi
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 018. /

Page 2 of 9



WEB COPY

W.P.No.8123 & 8115 of 2020



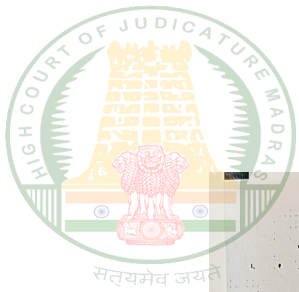
of rendering medical services and imparting medical education. The First Party has taken on lease the landed property situate in Plot No.19-23,48/1 and 48/2 together with the Door No.142/133, St.Mary's Road, Alwarpet, comprised in T.S.No.3676 (part) in Block No.73 of Mylapore village, Mylapore Taluk, Chennai within the limits of Chennai Corporation, from Sir John De Monte Trust in its favour vide Lease Deed No. 2703 of 2020 dated 05.12.2020 AND

Whereas the Second Party, a charitable society of Catholic Nuns called "Bon Secours Sisters", running educational and charitable institutions, had been permitted to do the said charitable and Christian mission in the said property in Door No. 153, TTK Road, Alwarpet, Chennai- 18 in T.S.No. 3676 (Part), by the Lessor Trust, way back from 1908, of which the Archbishop of Madras -Mylapore, is the Sole Trustee. Thereafter, the Second Party had constructed two schools, one orphanage, one old age home and a convent under the aegis of the above two Societies in the campus of "Bon Secours Convent" in the demised land.

Whereas the First Party after having entered into a Lease Agreement with the Lessor has obtained building plan approval from Chennai Metropolitan Development Authority under No. OL-PP/HRB/0004/2024 in Permit No. OL-00773 dated 23.02.2024 and has started to clear the site and have commenced the construction works of the Hospital from July 2024, of High Rise Building (HRB), consisting of Block 1: Extended Triple Basement Floor + Ground Floor + 11 Floors – hospital building and Block 2: Ground Floor + 1st floor – utility building, in its premises.

Sr. Maria Beilani
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 018.

Page 3 of 9



WEB COPY

W.P.No.8123 & 8115 of 2025



Whereas due to the impact of the said construction activity, especially excavation/removal of soil/earth in large volumes at a deeper level below the surface of the earth and of laying/sinking pile foundations in the premises of the First Party, the buildings in the campus, of the Second Party, developed cracks on the walls vertically and on the floors of the existing buildings horizontally and uneven settlements in the campus of the Second Party from September, 2023.

Whereas the Second Party lodged complaints to various authorities in the month of September, 2023. However, on the assurance of the First Party, by letter dated 04.09.2023, that they will undertake to repair the damages, the said complaints were withdrawn by the Second Party. It was also mentioned by the First Party that *"we also commit to finish the pile foundation work at the earliest, post which there won't be any disturbance to the school"*. However, it is admitted by both the parties that the damages, which was initially restricted to one building, started spreading to other buildings in the campus of the Second Party.

Whereas, as there were lot of ensuing damages and imminent danger/apprehension to the life and safety of the inmates, the students, the staff, the orphan children and senior citizens, the Second Party filed writ petitions in W.P.No. 8115 of 2025 and W.P.No. 8123 of 2025, praying for interference of the Hon'ble High Court, to ensure the safety of the persons and properties in the campus of the Second Party.

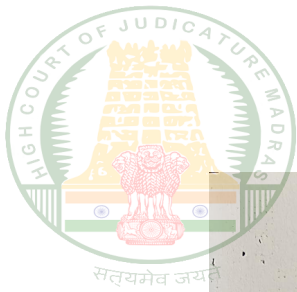
Whereas pending the above writ petitions, with a view to avoid any untoward incident, both the parties made a joint inspection and survey of both the campus of the Second Party on 14.03.2025 and it has come to

Sr. Maria Beilani
PRESIDENT

THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 018. /

[Signature]

Page 4 of 9



WEB COPY

W.P.No.8123 & 8115 of 2



the notice of the parties, that the following buildings are damaged beyond any repairs /recovery in the campus of the Second Party.

- i. The 'C' Block in Francis Xavier Matriculation School has been thoroughly damaged and is posing a danger to use the building further. The said building is kept out of bounds to anyone even to enter, for the last one year.
- ii. The Wisdom Block in the campus of the Second Party is also cracked in the Walls, Floor and the Boundaries and tilting towards the foundation pit of the First Party, on the eastern side.
- iii. The eastern tail-end of the Orphanage Block in the campus of the Second Party, has already started falling down, causing further damages of tilting and uneven settlements to the main Block of the orphanage.

Whereas the above damages have been taken note of and the same are admitted by the First Party and said to have been caused due to laying of the Pile Foundation at a deeper level below the surface of the soil and the excavation of the soil and the heavy construction materials deployed in the construction site of the First Party.

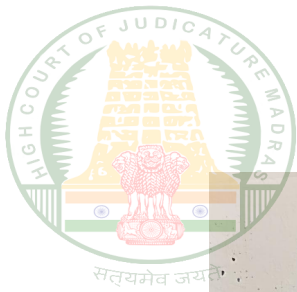
Whereas apart from the above specific damages to the said three buildings, cracks have also appeared in the other buildings in the campus of the Second Party and both the parties, agree to monitor the situation closely and the First Party agrees to do the needful if necessary.

Whereas the Old Age Home, in the campus of the Second Party is also damaged beyond control and the inmates have been already vacated.

However, in the opinion of the inspecting team the said building need not

Sr. Maria Guilan
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 018

Page 5 of 9



WEB COPY

W.P.No.8123 & 8115 of 2



be immediately declared as unsafe and that the structure can be rectified and saved. In the event of any further aggravating damages to said building, the First Party undertakes to do the needful at a later date.

Whereas, the President of the Second Party, by virtue of the resolution of the Governing Body of their Societies mentioned supra has been authorized to resolve the issue by participating in the negotiations with the First Party and reach a viable settlement in this regard.

Whereas both the parties, admitting the above facts and in order to settle the issues amicably after mutual discussions have arrived at the following terms of settlement and have entered into this Memorandum of Understanding as set out hereunder:

NOW THIS INDENTURE OF MEMORANDUM OF UNDERSTANDING WITNESSETH AS FOLLOWS:

1. The First Party undertakes the liability of demolition of buildings indicated in the Plan attached hereto in the Annexure as A, B, C, belonging to the Second Party in the demised premises. The same shall be done after giving prior information and obtaining permission from the competent authorities.
2. The cost of the said demolition of buildings, indicated in the Plan attached hereto in the Annexure as A, B and C, and the liabilities arising there from will be borne by the First Party.
3. The three buildings, mentioned in the Plan attached hereto in the Annexure as A, B and C, or their equivalent plinth area, have to be rebuilt by the First Party. Mr. M. K. Rajagopalan representing the First Party has also accepted to do the same,

Sr. Maria Eulonia
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 018.

Page 6 of 9



WEB COPY

admitting the liability. However, it cannot be immediately executed, till the construction activity of the First Party reaches above the ground level. Secondly, it involves statutory compliance like Plan Approval, Setbacks etc. Any delay can also create unnecessary misunderstanding between the parties. Hence, the Second Party itself can undertake the said Reconstruction at a later date and at its own convenience, without corresponding liabilities to the First Party.

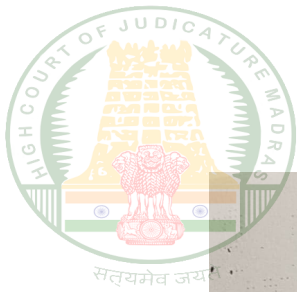
4. Having regard to the reasons as set out in Clause 3, it is agreed that the First Party undertakes to pay the cost reconstruction of the said proposed constructions, in lieu of reconstructing the damaged buildings, at a flat rate of Rs. 2000/- per Sq.ft.
5. For that purpose, the approximate reconstruction cost implies the following:

S.No.	Name	Extent	Cost estimate
a	C. Block	5436	Rs.1,08,72,000
b	Wisdom Block	3773	Rs. 75,46,000
c	Toilet Block	1291	Rs. 25,82,000
	Total	10500	Rs.2,10,00,000

6. The cost estimated for the reconstruction is approximately valued at the rate of Rs. 2,000/- per sq. ft, and works out totally to an amount of Rs.2,10,00,000/- (Rs. Two Crores and Ten Lakhs Thousands and Four Hundred Only), as detailed supra. The First Party has agreed to pay the reconstruction cost of Rs.2,10,00,000/- (Rs. Two Crores and Ten Lakhs only to the

Sr. Maria Beilani
PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO I
ALWARPET, CHENNAI-600 012

Page 7 of 9



WEB COPY

W.P.No.8123 & 8115 of 2



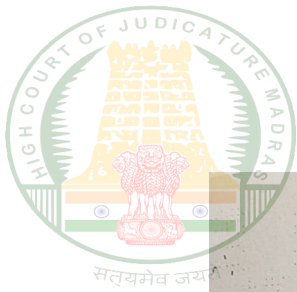
charitable society, under the control of the Second Party, that is exempted u/s 80G of the IT Act, 1961.

7. The payment of the abovesaid amount of compensation is agreed to be paid by the First Party, on or before 15.04.2025.
8. While carrying out the demolition of the above demarcated buildings, the First Party shall ensure the safety and the structural stability of the abetting buildings, avoiding any impact over the same. In case of any damage to the abetting buildings is caused, due to the demolition works, the First Party shall compensate for the same in monetary value as estimated by the Engineers appointed by both the Parties.
9. As the campus of the Second Party is comprised of two Schools, an Orphanage, an Old Age Home and a Convent, the debris of demolition have to be necessarily removed by the First Party, without causing hindrance / jeopardising the normal functions in the campus of the Second Party, involving Children and Senior Citizens, possibly through the southern Gate of Francis Xavier Matriculation School in St. Mary's Road, so that the day-to-day activities in the said campus of the Second Party can continue.
10. It is mutually agreed between the parties that before commencing the demolition works, there has to be a clear demarcation of boundaries between the two properties so as avoid any misunderstanding and a plan has to be drawn with metes and bounds.

St. Maria Beilani
PRESIDENT

THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO 1
ALWARPET, CHENNAI-600 018.

Page 8 of 9

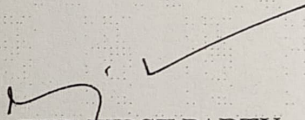


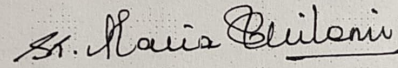
WEB COPY

11. It is the liability of the First Party to ensure statutory compliance for commencement and completion of demolition. The Second Party will fully cooperate with the First Party, regarding affixing signatures in documents for the same.
12. The liability of obtaining Approval for Building Plans for Reconstruction will be that of the Second Party.

Annexure of the Site Map, with the marked buildings as A,B and C, is part of this MOU.

IN WITNESS WHEREOF the Parties hereto have set their respective hands seals to these presents on the day, month and year first hereinabove mentioned.


THE FIRST PARTY


THE SECOND PARTY

PRESIDENT
THE REGULAR TERTIARY FRANCISCAN SISTERS OF
OUR LADY OF BON SECOURS SOCIETY NO 1
ALWARPET, CHENNAI-600 018.

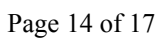
Witnesses:

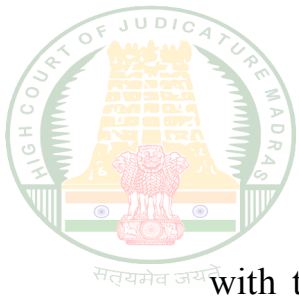
1.

2.



W.P.No.8123 & 8115 of 2





W.P.No.8123 & 8115 of 2

4. Accordingly, the petitioners are directed to act in accordance

with the memorandum of undertaking submitted before this Court without causing any undue delay.

WEB COPY

The Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S,J.] [K.R.S,J.]

28.03.2025

veda

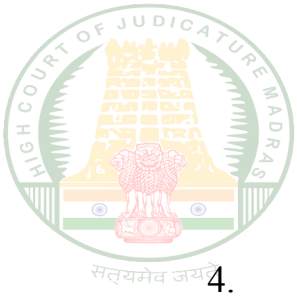
Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Housing and Urban Development,
Fort St.George,
Chennai - 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Poonamallee High Road,
Chennai - 600 003.
3. The Chief Executive Officer,
The CMDA,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,



WEB COPY

W.P.No.8123 & 8115 of 2017



Chennai - 600 008.

4. The District Collector,
Chennai Collectorate,
Fourth Floor, M.Singaravelar Maaligai,
No.62, Rajaji Salai,
Chennai - 600 001.
5. Commissioner of Police,
The Office of the Commissioner of Police,
No.32, EVK Sampath Road,
Periamet,
Vepery, Park Town,
Chennai - 600 007.
6. MGM Health Care Pvt. Ltd.,
Represented by its Project Manager,
New No.72, Old No.54,
Nelson Manickam Road,
Aminjikarai,
Chennai - 600 029.



WEB COPY



W.P.No.8123 & 8115 of 2

S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

veda

W.P.Nos.8123 & 8115 of 2025

28.03.2025