



WEB COPY

W.P(MD).No.17409 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.17409 of 2020

and W.M.P. (MD) No.14550 of 2020

(Through Video Conference)

E.Shanthi

.. Petitioner

Vs.

1) The District Collector,
Tirunelveli District, Tirunelveli.

2) The Block Development Officer (Village Panchayat),
Valliyoore, Tirunelveli District.

3) The Special Officer,
Levenjipuram Panchayat,
Levenjipuram,
Tirunelveli District

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari, to call for the impugned order passed by the 2nd respondent dated 14.09.2020 made in Na.Ka.No.Aa3/2197/2019 and subsequently quash the same as illegal.

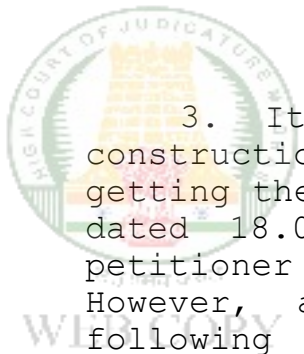
For Petitioner	:	Mr.S.Palani Velayutham
For R1	:	Mr.A.Muthukaruppan, Additional Government Pleader
For RR 2 & 3	:	Mr.Murugan, Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 14.09.2020 passed by the second respondent cancelling the approved building plan, dated 27.09.2019 as well as regularization of the lay out granted on 14.11.2019, in favour of the petitioner, for constructing a dwelling house at Plot No.30, comprised in S.No.834/2 measuring an extent of 196.5 sq m and equivalent to 4.85 cents situated at Levanjipuram Village, Levanjipuram Panchayat, Panagudi Sub Registration, Radhapuram Taluk, Tirunelveli District.

2. Mr.A.Muthukaruppan, learned Additional Government Pleader accepts notice for the first respondent and Mr.Murugan, learned Additional Government Pleader accepts notice for the respondents 2 and 3. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

<https://hcservices.ecourts.gov.in/hcservices/>



3. It is the case of the petitioner that he commenced construction of dwelling house in the aforementioned property after getting the building plan approval, pursuant to the Government Order dated 18.08.1997 bearing No.256. It is also the case of the petitioner that he has also paid the requisite fees and charges. However, according to him, arbitrarily and illegally without following the due process of law and by not adhering to the principles of natural justice, the second respondent has cancelled the approved building plan granted in favour of the petitioner, without any notice having been issued to him before the said cancellation. In such circumstances, this writ petition has been filed challenging the impugned order of cancellation.

4. Heard Mr.S.Palani Velayutham, learned counsel for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader for the first respondent and Mr.Murugan, learned Additional Government Pleader for the respondents 2 and 3.

5. Admittedly, as seen from the impugned order dated 14.09.2020 passed by the second respondent, no notice has been given to the petitioner prior to the said cancellation. The second respondent has cancelled the regularization of plan granted in favour of the petitioner on 14.11.2019 under the impugned order. In the very same impugned order, the second respondent has also cancelled the building plan approval granted in favour of the petitioner on 27.09.2019. Admittedly, no notice was issued to the petitioner prior to the passing of the impugned order. When the petitioner has obtained regularization of his plot and has also obtained a valid approval for constructing a house earlier, the second respondent ought to have issued notice to him and should have heard him before passing the impugned order dated 14.09.2020. The approval granted in favour of the petitioner earlier has also not been disputed by the respondents as seen from the impugned order and also after hearing the submissions made by the learned Additional Government Pleader appearing for the respondents.

6. It is also the case of the petitioner that the property was previously owned by his vendor ever since 2007 and he purchased the property only on 12.10.2018 and therefore, it is not correct to state as seen from the impugned order that since the sale of plot was made only after 20.12.2016, it would not apply for a plot having been sold on 12.08.2018. The contentions of the petitioner as raised in this writ petition will have to be necessarily considered by the second respondent. But even without considering the same and without issuing any notice to him and by not adhering to the principles of natural justice, the second respondent has passed the impugned order cancelling the regularization as well as by cancelling the approved building plan granted in petitioner's favour earlier.

7. For the foregoing reasons, the impugned order dated 14.09.2020 passed by the second respondent is hereby quashed and



the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording sufficient opportunity to the petitioner to put forward all his objections and also grant him the right of personal hearing within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.14550 of 2020.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The District Collector,
Tirunelveli District, Tirunelveli.
- 2) The Block Development Officer (Village Panchayat),
Valliyoore, Tirunelveli District.
- 3) The Special Officer,
Levenjipuram Panchayat,
Levenjipuram,
Tirunelveli District.

+1cc to the SPL GP SR.No.15545.

W.P(MD).No.17409 of 2020

14.12.2020

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