



W.P.(MD)No.15097 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.15097 of 2012

and

M.P.(MD)No.1 of 2012

Puliammal

... Petitioner

Vs.

The Block Development Officer,
Kottampatti Panchayat Union,
Melur Taluk,
Madurai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No. 2992/12/A5 dated 09.11.2012, quash the same and consequently direct the respondent to permit the petitioner to complete the construction as per the Chief Minister's Green House.

For Petitioner : Mr.J.Anandkumar

For Respondent : Mr.D.Sasikumar
Additional Government Pleader



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ORDER

The present writ petition has been filed challenging the order passed by the respondent herein, under which, a sum of Rs.84100/- sanctioned to the writ petitioner for construction of Green Houses were sought to be recovered from the writ petitioner.

2. According to the writ petitioner, he was sanctioned with a sum of Rs.84000/- for construction of a Green House under a Government Scheme. The petitioner was originally sanctioned with a sum of Rs.9,050/-. Thereafter, on 08.08.2012, a sum of Rs.40,725/- was sanctioned. Under the impugned order, dated 09.11.2012, the respondent has stated that the petitioner has to construct only to an extent of 300 square feet as per the Green House Scheme. But, he has constructed a larger extent and hence, the amount disbursed to him, namely, Rs. 84,100/- should be refunded by the writ petitioner. The said order is under challenge in the present writ petition.

3. According to the learned Counsel for the petitioner, there is



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no condition in the said scheme that the petitioner should not construct for more then 300 square feet. He further contended that he has put up construction only within his property and there is no encroachment over the neighboring properties. The petitioner has utilized his own money and has put up construction in a larger extent. Hence, the impugned order is not sustainable.

4. Per contra, the learned Counsel for the respondent has contended that as per the scheme, the petitioner should construct the house only to an extent of 300 square feet. In case, if there is any violation of the scheme, the respondent is legally entitled to recover the amount that was sanctioned to the writ petitioner.

5. I have carefully considered the submissions made on either side.

6. The copy of the scheme has not been produced on either side. It is not in dispute that the petitioner has put up construction only



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within his property. Though, the Government has sanctioned only a sum of Rs.84,100/-, the petitioner has utilized his own source of income to put up a construction for a larger extent. The petitioner cannot be blamed for the said action. When the land belongs to the petitioner, the petitioner is always at liberty to put up an additional construction. Hence, the impugned order is not sustainable in the eye of law. The impugned order is set aside.

7. With the above said observations, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.07.2022

Index : Yes / No
Internet : Yes / No
jbr

To
The Block Development Officer,
Kottampatti Panchayat Union,
Melur Taluk,
Madurai District.



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R.VIJAYAKUMAR ,J.

jbr

Order made in
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20.07.2022