



W.P.(MD)No.12058 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12058 of 2022

P.Gopalakrishnan

... Petitioner

Vs

1.The Block Development Officer,
Agastheeswaram Block,
Perumalpuram,
Kottaram Post,
Kanyakumari District.

2.The President,
Maharajapuram Village Panchayat,
Maharajapuram,
Kottaram Post,
Kanyakumari District.

3.Esakkimuthu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 24.02.2021 and consequential order of the first respondent in Na.Ka.No.A9/1888/2021 dated 02.08.2021 and quash the both as illegal and unconstitutional consequentially direct the respondents 1 and 2 to accept petitioner's application, dated 24.06.2021 and to grant building plan approval in accordance with the petitioner's application dated 24.06.2021 within a time frame as may be stipulated by this Court.



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For Petitioner : Mr.A.Robin Son
For Respondents : Mr.M.Prakash
Additional Government Pleader for R.1

Mr.S.Shaji Bino for R.2

No Appearance for R.3

ORDER

Heard the learned counsel on either side.

2. The petitioner purchased the petition mentioned property under a registered sale deed dated 01.09.2015. The property originally belonged to a Trust. The petitioner had purchased the same for valuable consideration. The petitioner also applied to the jurisdictional Tahsildar and had obtained separate patta. The petitioner wanted to put up a construction. He submitted an application to the President of the local Panchayat. By the impugned order, the President rejected the petitioner's request. Questioning the same, this writ petition came to be filed.

3. The learned counsel appearing for the writ petitioner took me through the averments set out in the affidavit in support of the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the first respondent submitted that the land in question actually belongs to the local



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body. A TV room was earlier functioning thereon. He produced a copy of the entries made in the Panchayat Register indicating that the property belongs to the Panchayat. The learned Special Government Pleader would allege that the petitioner wants to grab the Panchayat property. He called upon this Court to sustain the order impugned in the writ petition and dismiss the writ petition.

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

6. I wanted to know if there are any materials to show that the property belongs to the local body. The local body is not able to produce any gift deed or any other document to show that the local body had title over the same. The revenue record also does not contain the name of the local body. Thus, the claim of the Panchayat President rests on no evidence. It is quite possible that once upon a time, on the petition mentioned land, there was a TV room used by the members of the public. But as on date, there is neither any TV nor any room and it is a vacant site. The petitioner has a valid title deed in respect of the same. The revenue record supports the petitioner's case. Therefore, the local body is not justified in rejecting the petitioner's request for granting building permission. The impugned order is set aside.



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7. The second respondent is directed to grant building approval as sought for subject to the fulfilment of the other conditions. This writ petition is allowed. No costs.

25.07.2022

Index : Yes / No
Internet : Yes/ No
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To

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- 2.The President,
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G.R.SWAMINATHAN, J.

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