



W.P.No.9311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9311 of 2023

P.Dinesh

... Petitioner

-Vs-

1.The Commissioner

Arakkonam Municipality

Arakkonam

Ranipet District.

2.The Tahsildar

Arakkonam Taluk.

.. Respondents

(R2 – suo motu impleaded vide order dt.20.04.2023
made in WP.No.9311/2023 by NAVJ)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to grant plan approval to the petitioner to construct a house in his site measuring 1519 Sq.ft bearing T.S. No. 35/6 Ward-B Block-4, Old SF No.35 Part, Arakkonam Town, Ranipet District by considering his application dated 19.08.2022 in the light of the permission letter dated 17.11.2022 granted in Na.Ka. A1/928/2022 by the Tahsildar Arakkonam Taluk.



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For Petitioner Mr.P.Krishnan

For Respondents Mr.C.Selvaraj
Additional Government Pleader
for R2

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ORDER

When the writ petition was came up for final hearing on 20.04.2023, this Court passed the following order:

Heard Mr.P.Krishnan, learned counsel appearing on behalf of the petitioner, Mr.Ravichandran, learned counsel appearing on behalf of the 1st respondent and Mr.C.Selvaraj, learned Additional Government Pleader appearing on behalf of the 2nd respondent.

2.This writ petition has been filed for issue of writ of mandamus directing the respondent to grant plan approval to the petitioner to construct a house in his property measuring an extent of 1519 Sq.Ft. Situated as T.S.No.35/6, Ward-B Block-4, Old SF No.35 Part, Arakkonam Town, Ranipet District by considering the application dated 19.08.2022 in the light of the permission letter dated 17.11.2022 granted in Na.Ka.A1/928/2022 by the Tahsildar, Arakkonam Taluk.

3.The learned counsel for the petitioner submitted that the access road to his property is situated in S.No.37 which has been categorized in the Town Survey Land Register as a Battai. It was submitted that there was some encroachment in this battai and after a prolonged litigation, the encroachment was removed. The petitioner has submitted an application before the respondent seeking for approval to construct a house in his patta land and the approach road/frontage for this proposed construction was shown as S.No.37 which has been categorized as battai. The learned counsel for the petitioner further pointed out to the letter given by the Tahsildar dated 17.11.2022, wherein, the Tahsildar has also recommended to the respondent to grant plan approval to the petitioner.



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In view of the same, the petitioner is insisting for the grant of plan approval to put up house in his patta land.

4.A counter affidavit has been filed by the respondent. The respondent has taken a very specific stand that they did not receive any communication from the Tahsildar in Na.Ka.A1/928/2022, dated 17.11.2022. In order to ascertain the genuineness of this document, a letter was addressed to the Tahsildar and the Tahsildar has replied on 18.04.2023 to the effect that no such letter was issued by the Tahsildar in favour of the petitioner. The learned counsel therefore submitted that the very basis on which the petitioner is seeking for approval becomes questionable.

5.The petitioner had relied upon the letter of the Tahsildar dated 17.11.2022 even when he made a representation to the respondent on 21.12.2022. Unfortunately, there was no response from the respondent. Therefore, the present writ petition was filed before this Court and once again reliance was placed upon the letter of the Tahsildar dated 17.11.2022. It is only at the time of filing the counter, the respondent has now come up with the stand that no such letter was issued by the Tahsildar. To ascertain the stand taken by the respondent and to bring more clarity, this Court deems it fit to suo motu implead the Tahsildar. Arakkonam Taluk as the 2nd respondent in this writ petition.

6.Mr.C.Selvaraj, learned Additional Government Pleader takes notice on behalf of the impleaded 2nd respondent.

7.The Registry is also directed to carryout the necessary amendment in the cause title.

8.The learned Additional Government Pleader is directed to get instructions from the Tahsildar as to whether the letter in Na.Ka.A1/928/2022, dated 17.11.2022 was issued by the Tahsildar to the Commissioner of Arakkonam Municipality. The relevant files shall also be produced before this Court.

9.Post this case under the caption 'For Orders' on 25.04.2023.

2.When the writ petition was taken up for final hearing today, Mr.A.V.Shanmugha



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Sundaram (43), Tahsildar, Arakkonam (Mobile No.944500507), was present before this Court along with all the original files.

3.The petitioner was strongly relying upon the letter of the Tahsildar in ந.க.ஆ.1/928/2022, நாள் 17.11.2022 and was seeking for plan approval from the respondent Municipality. On going through the original records, it is seen that the relevant communication in ந.க.ஆ.1/928/2022, நாள் 17.11.2022 actually pertained to a letter dated 27.07.2022, which was a communication from the Special Tahsildar made to the District Collector, Ranipet District. This communication dealt with the earned leave entitlement. It is therefore apparent that the letter dated 17.11.2022, which was relied upon by the petitioner is a forged and fabricated document.

4.In the light of the above revelation, there is absolutely no scope for this Court to exercise its jurisdiction in this writ petition. The learned counsel for the petitioner submitted that the Principal viz., Mr.P.Dinesh is residing in U.S.A and he had appointed his mother Mohana as the agent. In turn, the agent had got in touch with one Rajan, who is said to be well acquainted with the Office of the Arakkonam Taluk and it is only with his help, the agent proceeded further by believing him. The learned counsel submitted that the petitioner is innocent and they never knew that the communication dated 17.11.2022, was a forged and fabricated document.

5.In the considered view of this Court, an enquiry has to be initiated and appropriate



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action must be taken against the concerned person, who was instrumental in preparing this forged and fabricated document, as if it was issued by the Tahsildar of Arakkonam Taluk.

This Court cannot invoke Section 195(1)(b)(II) of Cr.PC, r/w 340 Cr.PC, since the document in question has been forged and fabricated even before it came before this Court. In other words, the offence was not committed when the document was in the *custodia legis* of this Court. Therefore, it is left open to the impleaded 2nd respondent to immediately initiate an enquiry on the forged and fabricated document in ந.க.ஆ.1/928/2022, நாள் 17.11.2022. A complaint shall also be lodged before the jurisdictional Police to investigate the same. Wherever official records are forged, no leniency can be shown and it has to reach its logical end. Hence, this Court holds that the 2nd respondent will proceed further in accordance with law.

6.In the result, this writ petition stands dismissed. No costs.

25.04.2023

KP
Internet : Yes/No
Index : Yes/No
Speaking Order:Yes/No
Neutral Citation :Yes/No

N.ANAND VENKATESH, J.



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To

- 1.The Commissioner
Arakkonam Municipality
Arakkonam
Ranipet District.
- 2.The Tahsildar
Arakkonam Taluk.

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