



W.P.(MD) No.3550 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.(MD)No.3550 of 2021

T.S.Mani

...Petitioner

Vs.

1.The Deputy Director,
Town and Country Planning,
Thirunelveli Region,
By Pass Road South,
Thirunelveli-5.

2.The Executive Officer,
Thiruchendur Special Grade Town Panchayat,
Kamarajar Salai,
Thiruchendur,
Thoothukudi District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue orders or directions or writs in the nature of Writ of Mandamus directing the 2nd Respondent to give building plan approval to the petitioner constructed house at Survey Nos. 254/1A and 255/5B2 situated at Thiruchendur, Thoothukudi District on the basis of the 1st Respondent order Na.Ka.No.4618/2019/Thilima3, dated 19.02.2020.



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For Petitioner :Mr.R.Murugappan
For Respondents :Mr.A.K.Manikkam
Special Government Pleader

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the second respondent to grant building plan approval to the petitioner on the basis of the proceedings issued by the first respondent dated 19.02.2020.

2. The case of the petitioner is that the subject property absolutely belongs to the petitioner by virtue of a registered sale deed dated 31.01.2012. The petitioner wanted to put up a building to enable his son to occupy the same and accordingly, submitted an application for building plan approval before the first respondent. The first respondent, through proceedings dated 19.02.2020 granted the approval subject to certain conditions. Pursuant to the same, the petitioner approached the second respondent for building plan approval. Since the same was not acted upon by the second respondent, the present writ petition has been filed before this Court.



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3. When the matter was taken up for hearing, the learned Special Government Pleader appearing on behalf of the respondents submitted that the second respondent has been upgraded as Thiruchendur Municipality. The learned Special Government Pleader further submitted that a suit in OS No.54 of 2010 was filed before the Principal District Judge, Tuticorin. It was thereafter transferred to the file of the Sub Court, Thiruchendur and renumbered as O.S.No.46 of 2017 and in view of the pendency of the suit, the second respondent did not consider the application submitted by the petitioner seeking for building plan approval.

4. In the considered view of this Court, mere pendency of the suit cannot be a ground for not granting building plan approval to the petitioner, in the absence of any restraint order passed by the competent Court. It is stated that the sale deed through which the petitioner is claiming title has been put to challenge in the suit. Whatever happens during the pendency of the suit will be subject to the final result of the suit. Therefore, the second respondent can proceed further to process the building plan approval application, in the absence of any restraint order passed by the competent Court.



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5. In view of the above discussion, this writ petition is disposed with a direction to the second respondent to proceed further to process the building plan approval, in the absence of any restraint order passed by the competent Court. No costs.

12.10.2023

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

SM



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Thirunelveli-5.
- 2.The Executive Officer,
Thiruchendur Special Grade Town Panchayat,
Kamarajar Salai,
Thiruchendur,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N. ANAND VENKATESH, J.

SM

Order made in
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