



W.P.(MD) No.10302 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.10302 of 2020
and
W.M.P.(MD) No.9171 of 2020**

G.R.Subramanian

... Petitioner

/vs./

The Executive Officer,
Kayathar Town Panchayat,
Tuticorin District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.No.167/2020 dated 20.07.2020 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar for
M/S.Ajmal Associates

For Respondent : Mr.D.Ghandiraj
Special Government Pleader



W.P.(MD) No.10302 of 2020

WEB COPY

ORDER

The above writ petition is filed for the issue of a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.No.167/2020 dated 20.07.2020 and quashing the same as illegal.

2.The petitioner would contend that he owns a house in S.No.243A/1 at Kayathar Village, Kovilpatti Taluk, Tuticorin District. The property has been in his possession for over 10 years and the petitioner had therefore decided to reconstruct the same for his residential purpose. The house was constructed on the land, which has been classified as Grama Natham. Since the building had become dilapidated, the petitioner had demolished the same and attempted to put up the construction by applying for a building plan permission. The respondent, by his order dated 30.09.2019, had granted permission and on the basis of this, the house has been constructed.

3.While the matter stood thus, the respondent through his impugned proceeding has directed the petitioner to approach the land Surveyor to survey the



W.P.(MD) No.10302 of 2020

WEB COPY

land and the Surveyor was directed to submit the report to the office of the respondent by 27.07.2020. The reason for the survey was on account of the fact that the respondent opined that the construction has been made without obtaining the building plan permission. The premise, on which the impugned order was passed, is faulty, since the petitioner had already obtained permission on 30.09.2019. Further, he would submit that the allegation that the construction has been made encroaching the street is also factually wrong. The petitioner would submit that though he has been taking steps to have the services of the Surveyor attached to the office of the Tahsildar to survey the land, however the Office of the Tahsildar was not inclined to extend their services. A representation in this regard was also sent on 20.08.2020. Since the petitioner was left without any remedy, this Writ Petition has been filed for the issue of a Writ of Certiorari to quash the proceedings of the respondent.

4.The respondent had filed a counter, in which it is stated that the petitioner had encroached into 100 sq.ft., of land. Though the respondent had granted the building plan approval, a complaint was received stating that the petitioner had encroached in 100 sq.,ft of land and thereafter, the building plan approval was



W.P.(MD) No.10302 of 2020

cancelled. It is the case of the respondent that despite the cancellation, the petitioner had proceeded with the construction. The construction has been put up partly by encroaching the road. Therefore, he sought for dismissal of the writ petition.

5.Today when the matter had come up, it is informed by the learned counsel that on 16.03.2022, the petitioner has obtained fresh approval and that he has not put up any construction on the road, which is evident from the approval now granted.

6.Taking into consideration the subsequent approval, the impugned order passed by the respondent in Na.Ka.No.167/2020 dated 20.07.2020 is set aside. However, the respondent shall verify as to whether the approved plan is well within the property belonging to the petitioner and that it is not a protrusion/encroachment into the public road. If there is any encroachment, the respondent shall proceed against the same in accordance with law. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.



W.P.(MD) No.10302 of 2020

WEB COPY

7. With the above directions, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

06.06.2023

mm

To

The Executive Officer,
Kayathar Town Panchayat,
Tuticorin District.



WEB COPY



W.P.(MD) No.10302 of 2020

P.T.ASHA, J.

mm

W.P.(MD) No.10302 of 2020

06.06.2023