



W.P.(MD).No.20903 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **22.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD). No.20903 of 2023

W.M.P.(MD). Nos.17301 and 17302 of 2023

Sivanesan

... Petitioner

Vs.

1. The Director,
Director Office (Town Panchayat),
7th and 8th Floor,
Kuralagam,
Chennai.
2. The Assistant Director,
Office of the Assistant Director Office,
Regional Town Panchayat,
Collectorate,
Tiruchirappalli.
3. The Executive Officer,
Alangudi Town Panchayat,
Alangudi Selection Grade Town Panchayat,
Alangudi,
Pudukkottai District.

...Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 3rd respondent in his letter dated 13.03.2023 in Na.Ka.No.51/2023/A1 and consequently, direct the 4th respondent to issue the plan approval to the petitioner submitted by him on 18.03.2023 in S.F.No.285/1A of Alangudi Town, Alangudi Taluk, Pudukkottai District.

For Petitioner : Mr.R.Paranjothi

For Respondents : Mr. G.V. Vairam Santhosh
Additional Government Pleader
for R1 & R2
Mr. P. Maharajan
Special Government Pleader
for R3

ORDER

This Writ Petition has been filed challenging the impugned order passed by the third respondent on 13.03.2023, rejecting the request of the petitioner for constructing a building in the land in S.F.No.285/1A.

2. The learned counsel appearing for the petitioner, by relying upon the judgment and decree passed in O.S.No.27 of 2012 by the District Munsif Court, Pudukkottai and the judgment and decree passed



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in A.S.No.65 of 2019 by the Principal Sub Court, Pudukkottai, submits that the petitioner has purchased the property in S.F.No.285/1A from one Rengasamy. The said Rengasamy along with one Kalaiyaran had filed a suit in O.S.No.27 of 2012 before the District Munsif Court, Pudukkottai, against one Panchalam, the third respondent herein, namely, the Executive Officer, Alangudi Town Panchayat, Alangudi Selection Grade Town Panchayat, Alangudi, Pudukkottai District and the District Collector, Pudukkottai District, with regard to this property in S.F.No.285/1A and the sand. The suit was decreed in their favour. As against the said judgment and decree, the third respondent herein has preferred an appeal before the Sub Court, Pudukkottai, in A.S.No.65 of 2019 and the appeal was dismissed by the Appellate Court, by its judgment and decree dated 23.12.2021. While so, the third respondent herein again and again is taking a stand that the property in S.F.No. 285/1A belongs to the Panchayat.

3. Though this Court was convinced with the petitioner's submission at the time of admission itself on 28.08.2023, at the request of the learned counsel appearing for the third respondent/Town



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Panchayat, the matter was adjourned today for the response of the third respondent to the averments made in this writ petition. However, the third respondent has not filed any response.

4. It is not in dispute that the petitioner has purchased the property in S.No.285/1A from one Rengasamy and has obtained a decree in his favour from the competent civil Court. While so, the third respondent ought not to have rejected the application of the petitioner for constructing the building in S.F.No.285/1A, when the third respondent was a party to the suit. Hence, this Court is inclined to set aside the impugned order passed by the third respondent in Na.Ka.No.51/2023/A1 dated 13.03.2023 and the matter is remanded back to the third respondent to take decision afresh on the petitioner's application and pass appropriate orders, in the light of the judgment and decree passed in O.S.No.27 of 2012 by the District Munsif Court, Pudukkottai and the judgment and decree passed in A.S.No.65 of 2019 by the Principal Sub Court, Pudukkottai, within a period of eight weeks from the date of receipt of a copy of this order.



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5. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No
ssb

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B.PUGALENDHI, J.

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