



WP(MD)No.29550 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.29550 of 2023
and
WMP(MD)No.25510 of 2023

N.Arul Dass

.. Petitioner

v.

The Mandaikadu Town Panchayat,
Rep. by its Executive Officer,
Mandaikadu Post,
Kanyakumari District.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondent to assess the property tax for the petitioner's building in S.No.339/8 in Mandaikadu Village, Kalkulam Taluk, Kanyakumari District within a stipulated time limit.

For Petitioner : Mr.T.Aswin Raja Simman

For Respondent : Mr.M.Sarangan,
Additional Government Pleader



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ORDER

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The petitioner is the owner of the land in S.No.339/8 in Mandaikadu Village, Kalkulam Taluk, Kanyakumari District. He claims that his land is to an extent of 5 cents and he has also been issued with patta in No.7827 by the Tahsildar, Kalkulam. According to the petitioner, he has obtained a building plan approval from the respondent on 13.07.2021 and put-up a construction to an extent of 446 sq.mt. After the construction, he has approached the respondent for assessing the property and building for property tax. But the same has not been considered by the respondent, on the objections of a third party that this petitioner has constructed the building in violation of the building plan approval and also put-up construction in a public road. Hence, the petitioner has moved this writ petition.

2.Learned Counsel for the petitioner submitted that the petitioner has not violated the building plan approval and has not put up any construction in the public road, as claimed by the respondent. The



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petitioner is also prepared for a survey in their presence, however, without taking any steps, the respondent is not considering the petitioner's application for the past three months.

3.Learned Additional Government Pleader, on instructions, submitted that it is true that the petitioner was given with a building plan approval on 13.07.2021, however, the petitioner has put up a compound wall on the public road. An objection petition was received from one Paulraj and based on that, a show cause notice was issued to the petitioner on 12.09.2023. A request was made to the Tahsildar to conduct a survey of the petitioner's property and the survey was also conducted on 20.11.2023. They are awaiting for the survey report. As and when, the survey report is received, further orders would be passed on the petitioner's representation.

4.This Court considered the rival submissions made on either side and perused the available materials.

5.The petitioner claims that he is the owner of the property in S.No.



339/8 to an extent of 5 cents. The petitioner has made a request for building plan approval from the respondent and this petitioner's request was considered and building plan approval was also given to this petitioner on 13.07.2021. The petitioner, after putting up a construction, has made a request for assessment of his property.

6.The respondent, based on the objections of a third party, is not considering the application. It is not proper on the part of the respondent in rejecting the petitioner's application for property tax based on the objections of a third party alone. Since it is now reported that a survey was conducted in the presence of the petitioner by the Tahsildar, Kalkulam on 20.11.2023 and that they would take a decision based on the report of the Tahsildar, this writ petition is disposed of with a direction to the respondent to pursue with the Tahsildar, obtain the report as expeditiously as possible and thereafter, pass appropriate orders on the petitioner's application, after affording him due opportunity of hearing. The entire exercise shall be conducted within a period of eight weeks from the date of receipt of a copy of this order.



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There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
gk

13.12.2023

Note:

Mark a copy of this order to
The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

To

The Executive Officer,
Mandaikadu Town Panchayat,
Mandaikadu Post,
Kanyakumari District.



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B.PUGALENDHI, J.

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