



W.P.(MD)No.2917 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2917 of 2024
and
W.M.P(MD)No.2917 of 2024

L.Jeganath

... Petitioner

Vs

The Executive Officer,
Udangudi Town Panchayat,
Udangudi,
Thoothukudi.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order in Ka.UD.No.65/2023-24, dated 30.01.2024 issued by the respondent and quash the same.

For Petitioner	: Mr.G.Mohankumar
For Respondent	: Mrs.K.Christy Theboral Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order in Ka.UD.No.65/2023-24, dated 30.01.2024 issued by the respondent.



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2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

3. According to the petitioner, he is the absolute owner of the property in Natham S.No.317/1A in Natham R.S.No.870/35, 36, 37, 38 and 39 to an extent of 1.53 cents comprising of land and building in old shop door Nos.54/312, 53/313, 50/314, 48/315 and 46/316, new shop door No.93/312, 94/313, 95/314, 96/315 and 97/316 and land is RS.No.870/34 to an extent of 7.70 cents situated at East Bajar Road, Udangudi Town Panchayat, 6th Ward, Udangudi, Thoothukudi. He had purchased the said property through a registered sale deed, dated 23.09.2019 in document number 1711/2019 from A.Juliet Pappa, J.Rita, P.Johnsirani, V.Anjala and S.Swarnarathinam the legal heir of one J.D.Annammal, W/o.Deva Irakkam Nadar, who in turn had purchased the said property through a registered document, dated 08.04.1960. The Revenue Records were also mutated in his name. He intend to construct a commercial building in S.No.317/1A in R.S.No.870/34 and accordingly, he submitted a building plan application to Udangudi Town Panchayat with all the necessary documents on 07.04.2020 and 19.04.2021. The respondent had through his communication, dated 09.06.2022 directed him to conduct a survey and demarcation of the said property and submit the details of the same to the



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Panchayat office. Immediately, he submitted an application, dated 20.06.2022

to the jurisdictional Tahsildar seeking survey of R.S.No.870/34 situated at East Bajar Road, Udangudi Town Panchayat, 6th Ward, Udangudi, Thoothukudi District and also paid the necessary charges on 24.06.2022. As no action was initiated, he filed W.P(MD)No.3549 of 2023 and as per the direction issued by this Court by its order, dated 01.03.2023, the survey authority issued notice to all the necessary parties called for objections if any and conducted survey of the land and demarcated its four boundaries. No objection were made during the survey by any persons in spite of notice.

4. After being satisfied with all the records submitted, the respondent herein granted building plan approval on 23.01.2024 in approval No.65/2023-24. Immediately, on receipt of the approval, he started construction activities and the construction of foundation is going on. At this stage, on 30.01.2024 to the shock and surprise, the respondent issued a stop work notice to the petitioner referring to some representation said to have been received by them by some persons, who are not even residing in the said locality and therefore, for ascertaining the title of his property, a stop work notice is issued. He humbly submit that he had already submitted all the required documents to the respondent and only after being satisfied with all the documents, the building plan approval was granted on 23.12.2023, however,



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the impugned notice has been issued seeking for further documents without even specifying what documents are required, thereby, the construction work is sought to be stopped for indefinite period. Hence, the petitioner has left with no other effective alternative remedy, he is constrained to file this writ petition.

5. It is seen from the impugned order that only based on the complaint received from the third party, who are not related to the property, which is purchased by the petitioner from Juliet Pappa and others in document No. 1711/2019, dated 23.09.2018 which has been executed by Juliet Pappa, Rita, Jansirani, Valarmathi, Swarnarathinam, Jeganath in favour of the petitioner herein, the respondent has issued the impugned order. After purchase, they have submitted a building plan application to Udangudi Town Panchayat with all the necessary documents on 07.04.2020 and 19.04.2021. The respondent through his communication, dated 09.06.2022 directed the petitioner to conduct a survey and demarcation of the said property and submit the details of the same to the Panchayat Office. Thereafter, he filed writ petition W.P(MD)No.3549 of 2023 and this Court directed the authority to issue notice to all the necessary parties called for objections if any and conducted survey of the land and demarcated its four boundaries. Based on the orders of this Court, the property was measured and appropriate report has been produced before the authorities and thereafter only on 23.01.2024 they have given a planning permission for



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the year 2023-2024 in Survey No.870/34 and it is valid for a period of 23.01.2029. In the meantime, the respondent has issued the stop work notice to the petitioner on 30.01.2024 based on the complaint given by some third parties as they received objections and directed the petitioner to produce the relevant documents regarding title and other supporting documents.

6. When the authorities after receiving all the necessary documents and perused the same, granted building plan permission and suddenly, now issued the impugned notice without giving an opportunity of hearing. Based on the third party right, the respondent cannot ask the petitioner to stop the work. If the third party have any grievance, they have to approach the competent Civil Court to declare the right of easementary if any available by them.

7. Accordingly, the impugned order in Ka.UD.No.65/2023-24, dated 30.01.2024 passed by the respondent is set aside and the writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

15.02.2024

Index : Yes/No
Internet: Yes/No
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To

The Executive Officer,
Udangudi Town Panchayat,
Udangudi,
Thoothukudi.



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V.BHAVANI SUBBAROYAN, J.

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