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W.P(MD)No.11970 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11970 of 2020

and

W.M.P.(MD)No.10317 of 2020

M.Ilamaran

... Petitioner

Vs.

The President,
Thevanoor Panchayat,
Thaththaiyangarpettai Panchayat Union,
Musiri Taluk,
Tiruchirappalli District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order dated Nill issued by the respondent addressed to the petitioner cancelling the building plan approval extension order dated 17.6.2020 and quash the same.

For Petitioner : Mr.J.Bharathan

For Respondent : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the learned counsel on either side.



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2. The petitioner's mother Sagunthala was granted natham patta in respect of the petition mentioned housing site. This was on 16.04.1992. The petitioner's mother settled the property in favour of the petitioner through an unregistered deed subsequently. Natham patta came to be issued in favour of the petitioner on 15.08.2018. The petitioner wanted to put up construction. He applied for building plan approval from the local body. The plan approval was granted by the respondent on 05.12.2018. The petitioner was to complete the construction within one year. The petitioner commenced the construction but could not complete the same. He therefore applied for extension of the plan period. The respondent granted further extension vide order dated 17.06.2020. The petitioner was continuing the construction. In the meanwhile, the complaint was received as if the assignment was made in favour of the petitioner's mother and that in breach of the terms and conditions set out therein, the property had been settled in favour of the petitioner. In this regard, notice was issued to the petitioner calling him for enquiry. The petitioner filed W.P.(MD)No.1487 of 2020 questioning the validity of the notice. It is stated that the authority who issued the notice realized that what was granted in favour of the petitioner's mother was natham patta and not assignment patta. Hence, notice itself was withdrawn. Therefore, the writ petition filed by the petitioner



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became infructuous. Recording the said development, the writ petition was also closed. In the meanwhile, the impugned order came to be passed cancelling the order dated 17.06.2020 whereby the extension of the building plan period was granted. Challenging the same, the present writ petition came to be filed.

3. It is beyond dispute that the impugned order was passed without notice to the petitioner. The petitioner was granted building plan approval originally. He could not complete the construction within the period set out therein. He therefore sought extension of time. Extension of time was also granted. Thus, certain civil rights had accrued in favour of the petitioner. They could not have been taken away without putting the petitioner on notice. Therefore, the impugned order is set aside on the ground of violation of principles of natural justice.

4. When the order is set aside on this technical ground, invariably, the writ Court remits the matter to the file of the authority who passed the impugned order. Such remand order need not be passed in this case. This is because, the photographs enclosed in the typed set of paper would indicate that 90% of the construction is over. The petitioner is definitely entitled to seek



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extension of time also. More than anything else, adverse development took place only because the authorities concerned were under the erroneous impression that an assignment patta was issued in favour of the petitioner's mother. This foundational premise itself has turned out to be erroneous. The site was a grama natham and the petitioner's mother was issued natham patta and subsequently, patta has also been issued in favour of the petitioner.

5. In these circumstances, the respondent can very well be given a direction in this writ petition itself. Even while setting aside the impugned order, the respondent is directed to extend the building plan period by six more months. Such an order shall be issued by the respondent within two weeks from the date of receipt of a copy of this order. If any fees remitted by the petitioner had been returned, the petitioner is obliged to remit the same and comply with the usual formalities.

6. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.01.2024

Index : Yes / No
Internet : Yes/ No
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To
The President,
Thevanoor Panchayat,
Thaththaiyangarpettai Panchayat Union,
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G.R.SWAMINATHAN, J.

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