



WP(MD). No.20293 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 27/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.20293 of 2024
and WMP(MD) No.17213 of 2024**

P.Azeethu

... Petitioner

Vs

1. The Director of Town and Country Planning,
Chennai.

2. The Deputy Director of Town,
And Country Planning, Madurai.

3. The District Officer,
Department of Town and Country Planning, Madurai.

4. The Executive Officer,
Peraiyur Town Panchayat,
Madurai District.

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus calling for records pertaining the impugned return letter dated 18.06.2024 in File No. SWP/BPA/249092/2024/TCP issued by the 3rd respondent and quash the same and consequentially directing the respondents to grant building plan approval as per law.

For Petitioner : Mr.J. Barathan,



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For Respondent : Mr.D.Gandhiraj
Special Government pleader

ORDER

By consent of both sides, the writ petition itself is taken up for final hearing. Since the impugned order itself is not proper, no counter is required in this matter.

2. Challenge has been to the impugned order rejecting the petitioner's application for grant of building license. The same has been rejected citing the pendency of the suit in O.S.No.224/2024.

3. According to the petitioner, the property has been originally settled in his favour by his brother on 13.09.2010 and based on the said settlement deed, the petitioner has applied for building plan. In the meanwhile, the petitioner has also filed a suit to declare that the subsequent sale deed executed in respect of some survey number, after settlement in his favour. The said suit is pending in OS No.224/2024. Only citing the said pendency, the permission has been returned vide impugned order and hence, the present writ petition.



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4. At the outset, the reason assigned by the authorities cannot be sustained in the eye of law for the simple reason that the petitioner has in fact filed a suit to decide the subsequent document in respect of the some survey number and therefore that suit cannot be cited as against him. When the petitioner is in possession by way of settlement and the settlement deed has not been challenged by anyone so far, the reason assigned by the authorities to reject the plan has to go.

5. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to consider the building plan permission and grant the permission within a period of one month from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

27.08.2024

NCC : Yes/No
Index : Yes/No
RR



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And Country Planning, Madurai.
3. The District Officer,
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