



W.P.(MD) No.22801 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.22801 of 2017

Rajamanickam

.. Petitioner

Vs.

1.The District Collector,
Karur District, Karur.

2.The Project Director,
District Rural Development Agency,
Karur District, Karur.

3.The Commissioner/Block Development Officer,
Thogaimalai Panchayat Union,
Thogaimalai, Kulithalai Taluk,
Karur District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent passed in proceedings Na.Ka.A2/2140/2017 dated 10.07.2017 and quash the same and consequently direct the 3rd respondent to adhere the proceedings issued in Na.Ka.A2/2140/2017 dated 08.05.2017 passed by him.



W.P.(MD) No.22801 of 2017

For Petitioner : Mr.T.M.Madasamy
For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition has been filed seeking to quash the orders of the third respondent by which the work order issued to the petitioner was cancelled.

2. The learned counsel for the petitioner would submit that the petitioner was identified under the “Pasumai Housing Scheme” and work order was issued to him on 08.05.2017 on condition that he shall complete the construction within a period of two months from the date of issue of the work order. Immediately on receipt of the work order, the petitioner had constructed the house as per the scheme, but however after two months, the third respondent had cancelled the work order by holding that the petitioner's house was constructed even during the earlier calendar year. He would submit that the petitioner had proposed to construct the house and taking benefit of the scheme, made an



W.P.(MD) No.22801 of 2017

application and inspecting the property and finding it to be vacant, the work order was issued. After constructing the house, the present impugned order was passed without even affording an opportunity to the petitioner to place materials on record to establish his case that the house was constructed pursuant to the work order issued by the third respondent during May, 2017. Therefore, he would pray this Court to set aside the said order and direct the third respondent to adhere to the proceedings dated 08.05.2017 by which, work order was issued to the petitioner.

3. Countering his arguments, the learned Additional Government Pleader appearing on behalf of respondents 1 and 2 would submit that the petitioner has built his house according to his own will and not according to the scheme and guidelines. He would further submit that in a similar circumstance, where the beneficiary had constructed the house on his own will and accord, this Court had held that he would not be entitled for the benefit of the scheme. To that effect, he had relied upon the judgment of this Court in W.P.(MD) No.2310 of 2021 and W.P.No.26058 of 2023.



W.P.(MD) No.22801 of 2017

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4. I have considered the submissions made by the learned counsel on either side.

5. The order impugned indicates that the house of the petitioner was constructed in the previous calendar year. But the counter purports to defend the said order by indicating that the petitioner had constructed the house according to his own will and not as per the scheme. It has been repeatedly held by the Hon'ble Apex Court and followed by this Court also that the order impugned should be sustained on the grounds on which it has been made and not on new grounds. Hence, the contention of the learned Additional Government Pleader taking support from the counter affidavit filed by the third respondent cannot be countenanced. The reason assigned in the impugned order is that the petitioner has constructed the house in the earlier calendar year. The said reasoning also cannot be countenanced for the simple reason that when the benefit of the scheme was sanctioned in favour of the petitioner, the nature of the plot would have been verified and only thereafter, he would have been given the benefit of the scheme. There are also no documents



W.P.(MD) No.22801 of 2017

produced by the third respondent that the petitioner had constructed the house in the earlier calendar year. In such event, the impugned order suffers not only from the vice of violation of principles of natural justice but also a colourable exercise of power, since the impugned order is sought to be sustained on a reason on which it was not made.

6. For the aforesaid findings and reasonings, the impugned order is set aside and there is a direction to the third respondent to comply with the payment envisaged as per the work order dated 08.05.2017. Such exercise shall be carried by the third respondent within a period of eight weeks from the date of receipt of a copy of this order.

7. In fine, with the aforesaid direction, this Writ Petition stands allowed. There shall be no order as to costs.

11.12.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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W.P.(MD) No.22801 of 2017

K.KUMARESH BABU, J.

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To

- 1.The District Collector,
Karur District, Karur.
- 2.The Project Director,
District Rural Development Agency,
Karur District, Karur.

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