



W.P.(MD) No.23711 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.23711 of 2017
and
W.M.P.(MD) No.19917 of 2017**

J.Rajan

... Petitioner

/vs./

- 1.The Director,
Directorate of Town and Country Planning,
O/o. Directorate of Town and Country Planning,
No.807, Annasalai,
Chennai-2.
- 2.The Deputy Director,
Town and Country Planning,
Thanjavur Division,
No.33, 4th Street,
Rajappa Nagar,
Medical College Road,
Thanjavur.
- 3.The Executive Officer,
Thirunageswaram Town Panchayat,
Kumbakonam,
Thanjavur District.



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4.The Assistant Director of
Thanjavur Panchayat,
Thanjavur District.
(R4 has been impleaded vide order
dated 05.02.2018)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned order passed by the 2nd respondent herein in Na.ka.No.613/2015 Tha Ma2, dated 26.10.2017 and the consequential notice of the 2nd respondent in Na.Ka.No.613/2017 Tha Ma2, dated 26.10.2017 and quash the same and consequently direct he 1st and 2nd respondents to consider the application of the petitioner for regularization of the additional construction made by the petitioner in R.S.No.30 and 31/1A, bearing Plot Nos.18, 19, 27 and 28 situated at Thangavel Nagar, Anakkudi Thirunageswaram Village, Kumbakonam Taluk, Thanjavur District.

For Petitioner	: Mr.G.Mohankumar
For R1 & R2	: Mr.R.Suresh Kumar
	Additional Government Pleader
For R3	: Mr.M.Rajarajan

ORDER

The challenge in the writ petition is to the order passed by the second respondent in Na.ka.No.613/2015 Tha Ma2, dated 26.10.2017 and the



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consequential notice of the second respondent in Na.Ka.No.613/2017 Tha Ma2, dated 26.10.2017.

2. Heard Mr.G.Mohankumar, learned counsel for the petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents 1 and 2 and Mr.M.Rajarajan, learned counsel for the third respondent.

3. The learned counsel for the petitioner would contend that the second respondent by his order dated 26.10.2017 had returned the application seeking for revised building plan approval by contending that the details called for by him in his letters dated 27.04.2016 and 12.01.2017 were not received by him and therefore it was returned.

4. The learned counsel for the petitioner would take this Court to the communication dated 12.01.2017 issued by the second respondent and would contend that under the said letter, the second respondent indicated that he had called for certain particulars from the third respondent and only after receipt of those particulars from the third respondent, the petitioner's application could be



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considered. The impugned order indicates that the particulars called for had not been received by the second respondent had led to the return of the application of the petitioner for revised building plan approval. Therefore, he would submit that for no fault of his, the said application submitted by the petitioner had been returned and hence, the order suffers from the vice of arbitrariness and therefore, the consequential order would also have to be set aside.

5. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that even though the learned counsel for the petitioner would submit that since the particulars called for had not been received by the second respondent, there was no other alternative for him to return the application and it is always open to the petitioner to submit a fresh application with all the particulars.

6. He would place reliance on the counter affidavit filed by the second respondent. The communication dated 12.01.2017 indicates that the third respondent herein was directed to submit his remarks on the explanation submitted by the petitioner on 06.01.2017. The order impugned herein does not



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indicate that a report had been given by the third respondent to the second respondent to proceed further, but however had indicated that the details have not been received by him. Therefore, the said order suffers from not only arbitrariness but also non application of mind.

7. For the aforesaid reasons, the order impugned and the consequential order dated 26.10.2017 are set aside and the petitioner's application for revised planning permission shall be considered afresh by the second respondent within a period of 8 weeks from the date of receipt of a copy of this order.

8. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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To

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

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O/o. Directorate of Town and Country Planning,
No.807, Annasalai,
Chennai-2.

2.The Deputy Director,
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K.KUMARESH BABU, J.

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