



W.P.No.1249 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

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CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.1249 of 2025

S.K.S.Resorts India Private Limited
represented by its Authorised Signatory
Mr.Jyothish Kumar
First Floor, 6/1, Sri Vignesh Nagar
Vilankuruchi Road
Coimbatore 641 035

.. Petitioner

v.

1. The State of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai 600 009
2. The District Collector
The Nilgiris @ Udhagamandalam
3. The Commissioner
Town and Country Planning
807, Anna Salai
Chennai 600 002



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4. The Block Development Officer (V.Pts.)

Hullathi Village Panchayat

Udhagai Block

Udhagamandalam

5. The Building Plan Approval Committee

Udhagamandalam

Collectorate Office Buildings

Udhagamandalam

6. The Committee for Architectural and

Aesthetic Aspects (AAA)

Office of the District Revenue Officer

Ootacamund, The Nilgiris

7. The President

Hullathy Panchayat Union

Udhagamandalam, The Nilgiris 643 007 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for records of the proceedings in D7/20458/2017 dated 24.12.2024, passed by the 2nd respondent and the consequential order in Rc.B2.No.9343361/2024 dated 08.01.2025 passed by the 4th respondent and quash the same as wholly illegal and without jurisdiction.

For Petitioner :: Mr.V.Raghavachari
Senior Counsel for
Mr.Sharath Chandran

For Respondents :: Mr.T.Chandrasekaran
Special Government Pleader



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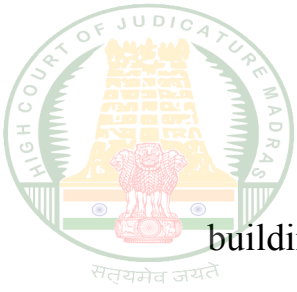
ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

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Aggrieved by the order dated 24.12.2024 passed by the District Collector, The Nilgiris and the notice issued by the Special Officer/Block Development Officer, Hullathi Village Panchayat, Udhagai Block, The Nilgiris District, the present writ petition came to be instituted.

2. The petitioner claims to be the owner of land admeasuring 1.7 acres in Hullathi Panchayat in The Nilgiris. After obtaining building plan permission, structures were made to run a commercial resort in the said premises. On 10.10.2017, the Hullathi Panchayat issued a notice calling upon the petitioner to submit records on the use of the building as commercial space. The second notice was issued on 18.01.2022 followed by a third notice on 19.07.2022 stating that the subject building could not be used for commercial purpose, as the building plan approval was granted only for residential purpose. A lock and seal notice was issued on 28.09.2022. Thereafter, the Hullathi Panchayat locked and sealed all the 14



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buildings on the premises on 15.10.2022. The petitioner preferred a revision under Section 80-A of the Tamil Nadu Town and Country Planning Act. The revision was allowed by the Government granting permission to the petitioner to carry out the rectifications and obtain revised approval. The Government granted three months time to rectify the unauthorised constructions and deviations and restore the building as per the building plan permission granted. The petitioner, accordingly, carried out the directives issued by the Government.

3. Again an application was submitted for granting necessary approval. The said application was placed for consideration before the District Level Committee for Architectural and Aesthetic Aspects (hereinafter referred to as the “Committee for AAA”). The Committee for AAA recommended the application submitted by the petitioner. It was placed before the District Collector for grant of approval under Rule 27-B of the Tamil Nadu District Municipalities (Hill Stations) Building Rules, 1993. The District Collector scrutinized the application along with the recommendations and conducted field inspection through the revenue



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officials. During the course of inspection of the access roads leading to the property, the revenue authorities found that Survey Nos.54/6, 44/4 and 43/2 are categorized as “Reserved Odai” (stream), “Reserved Road Odai” and “Reserve Road” as per revenue records. The access paths cross reserved streams (Survey No.54/6) and reserved roads (Survey No.44/4). Additionally, encroachment of approximately 0.21.90 hectares (0.54 acres) within Survey No.54/6 was observed, involving construction of retaining walls, landscaping and a portion of the swimming pool. Encroachments of reserved stream and/or on the road are identified and based on the field inspection conducted by the revenue officials, the District Collector rejected the recommendations made by the Committee for AAA and the application submitted by the petitioner. The District Collector, while rejecting the application, directed the petitioner-M/s SKS Resort India Private Limited to take corrective actions including the removal of encroachments, cessation of unauthorized operations and obtaining proper No Objection Certificates/Approvals from the relevant authorities to ensure full compliance with the relevant building and land use regulations.



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4. The learned Senior Counsel Mr.V.Raghavachari appearing on behalf of the petitioner would mainly contend that when the Committee for AAA recommended the case of the petitioner after verifying the documents, then there is no reason whatsoever for the District Collector to reject the same, since the building was constructed after obtaining due building plan permission and there is no illegality as such. Building is proposed to be used as commercial resort and all necessary permissions are obtained. Mainly before passing the impugned order, no opportunity of hearing was provided to the petitioner and thus the order is in violation of the rules of natural justice.

5. Mr.T.Chandrasekaran, learned Special Government Pleader appearing on behalf of the respondents would oppose by stating that the District Collector, on receipt of recommendations from the Committee for AAA, is empowered to approve or reject the same. In the present case, on receipt of the recommendation, field inspection was conducted and the authorities found large-scale encroachments, unauthorized constructions, more specifically, encroachments in water streams affecting the entire flow

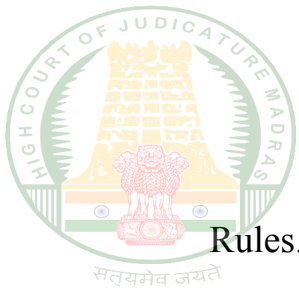


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of water in the hilly area. To substantiate the claim, the learned Special Government Pleader solicited the attention of this Court to the map made available, which would reveal that the flow of water stream is obstructed by constructing compound wall. Even the roads are not spared and encroached upon. Thus the order of the District Collector is based on the field inspection conducted and by verifying the revenue records and thus there is no infirmity.

6. Heard the parties to the lis on hand.

7. Let us examine the relevant Rules applicable in the present case, namely, the Tamil Nadu District Municipalities (Hill Stations) Building Rules, 1993. Rule 27-A of the said Rules provides the composition of District Committee for AAA. The Committee for AAA is chaired by the Additional Collector (Development) or the District Revenue Officer, as the case may be. Twelve members are in the Committee. The Committee for AAA may consider all the matters relating to preservation of hill station, ecology and environment and other matters under the provisions of the said



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Rules. Rule 27-B stipulates approval or refusal by the Collector. Sub-rule

(1) enumerates that the Collector, on receipt of the recommendations of the Committee for AAA, may either approve the proposal with or without such modifications as he deems fit or reject the approval.

8. The above Rules would indicate that the Collector is the approving authority and the recommendations of the Committee for AAA are to be placed for consideration before the District Collector. That being so, this Court do not find any procedural irregularity or jurisdictional error as stated by the petitioner. The District Collector is well within her powers under the above Rules and therefore the ground regarding jurisdictional error raised by the petitioner stands rejected.

9. On merits, the District Collector, on receipt of recommendations from the Committee for AAA, ordered for field inspection through revenue officials. The revenue officials conducted inspection based on the revenue records. It is found that the “Reserved Odai” (stream), “Reserved Road Odai” and “Reserve Road” as per the revenue records are encroached upon



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by the petitioner. That apart, unauthorized constructions/deviations are also identified. Several irregularities and illegalities are identified. Noting all illegalities and irregularities, the impugned order of rejection has been passed in proceeding dated 24.12.2024 and the actions mandated under law also have been specifically stated by the District Collector.

10. The actions mandated under the impugned order are as under:-

“1. Revocation of Approval:

The previously granted approval under AAA Resolution No.05, dated 09.12.2024, is hereby **revoked** due to these violations. Henceforth, the Architectural and Aesthetics Aspects Committee (AAA) should only forward resolutions for approval of District Collector after thorough verification of land documents and field inspections, so that such errors are not repeated in future.

2. Immediate Removal of Encroachment:

SKS India Pvt.Ltd., (Glyngarth Resort) is ordered to **remove the encroachment** on the reserved stream (Survey No.54/6), encompassing the retaining wall, garden, and swimming pool. The encroached land must be **restored to its original state**, in full compliance with the Tamil Nadu Land Use and Environmental Protection Regulations.



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3. Unauthorized Commercial Operations:

The resort must immediately **cease all commercial operations** including the acceptance of tourist bookings, as these activities are being conducted without the necessary approvals. The resort is prohibited from using the property for commercial purposes until proper permits are obtained.

4. No Objection Certificates:

SKS India Pvt.Ltd. (Glyngarth Resort) is required to obtain required **No Objection Certificates (NOCs)** from all concerned authorities based on these proceedings, confirming compliance with all relevant regulations and rectification of the violations.”

11. It is not as if the Collector has closed the doors for the petitioner, but only directed the petitioner to take corrective actions including the removal of encroachments, cessation of unauthorized operations and obtaining proper No Objection Certificates/Approvals from the competent authorities to ensure full compliance of the relevant building and land use regulations. While rejecting the application, the District Collector has given opportunity to the petitioner to rectify the illegalities and irregularities.

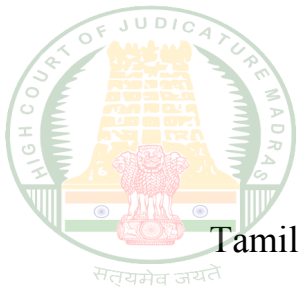


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Since the District Collector, during the course of inspection, found that the petitioner started operating the resort by inviting bookings through various online website, notice was issued by the Block Development Officer under Sections 56, 57 read with Section 85 of the Town and Country Planning Act to stop all the commercial usage operations till such time the illegalities and irregularities are rectified.

12. Meanwhile, the petitioner filed W.P.No.36414 of 2023 seeking to direct the respondents therein to pass orders on the petitioner's permit application dated 20.08.2018. The said writ petition was disposed of. Thereafter, challenging the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner filed W.P.No.3812 of 2025. However, the Division Bench, taking note of the pendency of the present writ petition, disposed of the said writ petition on 12.02.2025 by preserving the rights and contentions of both sides.

13. As far as the recommendation of the Committee for AAA is concerned, it is not binding on the District Collector under Rule 27-B of the



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Tamil Nadu District Municipalities (Hill Stations) Building Rules, 1993.

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No hearing is contemplated under the said Rules. Rule 27-A and Rule 27-B are only about dealing with the applications submitted by persons. On receipt of application, it is scrutinized by the Committee for AAA, which in turn may recommend the case or not recommend the case. Once the application is recommended, thereafter approval is to be granted by the District Collector. Power to refuse approval is also contemplated under Rule 27-B of the said Rules. Therefore hearing opportunity at that stage is not contemplated.

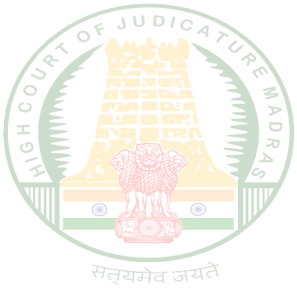
14. Personal hearing is not a conferred right in every case, but a general act of discretion by the authority in certain circumstances, particularly when the relevant statute is silent about affording personal hearing and that already the case of the petitioner in its application was fully answered. It is not an integral part, since the circumstances are so exceptional that hearing becomes inevitable. Rule of *audi alteram partem* does not require full judiciousness in each case.



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15. In the present case, when the application along with the details are placed for consideration, the Committee for AAA scrutinized the application and recommended the case of the petitioner. Thereafter, the District Collector conducted field inspection through the revenue authorities and found serious illegalities and irregularities. The District Collector has not passed any order, except directing the petitioner to immediately take corrective actions including the removal of encroachments, cessation of unauthorized operations and obtaining proper No Objection Certificates/Approvals from the competent authorities to ensure full compliance. Therefore, an opportunity is provided to the petitioner to comply with the irregularities noticed by the District Collector. Based on the District Collector's order, notice was issued by the Block Development Officer to stop all commercial use operations. Regarding removal of encroachments, separate notice has been issued by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905. Therefore, all further enforcement actions will only be by following the procedures as contemplated in law. However, till such time the petitioner has been stopped from utilizing the land for commercial operations.



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WEB COPY 16. In view of the facts and circumstances, this Court is of the considered view that the order of the District Collector is in consonance with the provisions of the Rules and the consequential notice issued by the Block Development Officer is also in accordance with the provisions of the Town and Country Planning Act. All further actions are to be initiated by following the procedures and by affording opportunity to the petitioner to defend their case in accordance with law. It is needless to state that all enforcement actions already commenced must go on without causing any undue delay. The writ petitioner is at liberty to submit all their documents along with defence statement, if any, within a period of ten days from the date of receipt of a copy of this order. On receipt of such representation, the respondents shall consider the same and thereafter initiate all enforcement actions including the removal of encroachments by following the procedures as contemplated under law. The entire enforcement actions including the removal of encroachments on the “Reserved Odai” (stream), “Reserved Road Odai” and “Reserve Road” are to be completed within the time-line as stipulated under the relevant statutes and rules in force. With



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these observations, the writ petition stands dismissed. Consequently,

interim order stands vacated and the W.M.P.No.1499 of 2025 is also dismissed. No costs.

Index : yes

(S.M.S.,J.) (K.R.S.,J.)

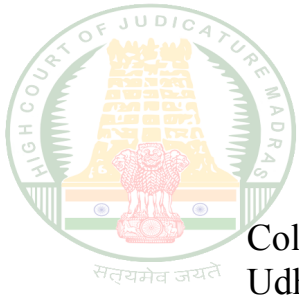
Neutral citation : yes

24.03.2025

ss

To

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S.M.SUBRAMANIAM,J.

AND

K.RAJASEKAR,J.

SS

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