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W.A. No.3101 of 2023



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.11.2025**

**CORAM :**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.A. No.3101 of 2023

and

C.M.P. No.25789 of 2023

The Commissioner  
Udhagamandalam Municipality,  
Udhagamandalam, Nilgiris

Appellant(s)

Vs

1.C.P.Mathan  
Both are represented by their Duly  
Registered Power Agent  
P.Sarootham,  
S/o. P.K.Padmanabhan,  
Residing at BT-43, Belmont Terrace,  
Tiger Hill Road, Melthalayattimund ,  
Ooty-643 001.

2.M.Palaninathan  
Both are represented by their Duly



Registered Power Agent P.Sarootham,  
S/o. P.K.Padmanabhan,  
Residing at BT-43, Belmont Terrace,  
Tiger Hill Road, Melthalayattimund,  
Ooty-643 001.

Respondent(s)

**Prayer:** Writ Appeal filed under Clause 15 of the Letters Patent praying  
to set aside the order dated 04.09.2020 in W.P. No.10327 of 2020.

For Appellant(s) : Mr.P.Srinivas

For Respondent(s) : Mr.P.Thamizh Vendan

### **JUDGMENT**

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

Writ Order dated 04.09.2020 in W.P.No.10327 of 2020 is under challenge in the present intra court appeal instituted by the Commissioner, Udhagamandalam Municipality. Respondents filed the writ petition seeking a direction to grant building permission/ license to the writ petitioner in online application No.20190101012283 dated 09.09.2019 strictly in accordance with the revised Master Plan 2011 issued vide G.O.Ms.No.50 Housing and Urban Development Department



dated 25.02.2011 and Review Approved Master Plan dated 01.04.2014.

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2. After passing of the writ order impugned on 04.09.2020, online application filed by respondents on 09.09.2019 was rejected by the Appellant/ Commissioner, Udhagamandalam Municipality vide proceedings dated 22.03.2021.

3. Respondents submitted an application seeking building plan permission in a prohibited place in terms of Rule 4(2) of Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993. Learned counsel appearing for appellant would submit that as per Rule 4(2) of Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993, no building plan permission can be granted by Commissioner, Udhagamandalam Municipality, however, writ court directed the appellant to grant permission based on the Master Plan Scheme. Master Plan Scheme cannot override the law in force and therefore the present intra court appeal is filed by the Commissioner, Udhagamandalam



Municipality.

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4. Learned counsel for respondents would submit that as per Master Plan Scheme, the proposed site is not prohibited and therefore there is no impediment for the municipality to grant building plan permission. Writ Court also considered this aspect and directed the authorities to dispose of applications submitted by writ petitioner on 09.09.2020 in accordance with departmental rules prepared, sanctioned and notified along with revised Master Plan, 2011, that was issued under G.O.Ms.No.50, Housing and Urban Development Department dated 25.02.2011.

5. After passing of the writ order impugned, appellant/ Commissioner, Udthagamandalam Municipality, considered the application and rejected the same vide proceedings dated 22.03.2021. Therefore, the directions issued by Writ Court to dispose of the application deserves no further consideration. However, the observation



made by Writ Court that such applications filed in Hill Station are to be considered based on the revised master plan, 2011, alone is to be examined.

6. Whether Building Plan Permission can be granted under the Revised Master Plan scheme or by following provisions of the District Municipalities Act and Hill Station Act and Rules framed thereunder? The issues raised in this regard are elaborately considered by this Court in the case of **Commissioner, Udhagamandalam Municipality vs. L.Loganathan** in **W.A.No.2542 of 2023** dated **12.11.2025**. The relevant paragraphs of the order are extracted hereunder:

*“11. Udhagamandalam is declared as a municipality and Tamil Nadu District Municipalities Act, 1920 (hereinafter referred to as the Act) would apply. In the said Act, Chapter X-A was inserted by the Tamil Nadu District Municipalities (Amendment) Act, 1992 (Tamil Nadu Act 58 of 1992) with effect from 9<sup>th</sup> December 1992. As per Section 217-A, this Chapter shall apply only to hill stations. The scheme of the Act under Chapter X-A would show that there is prohibition of construction or*



*reconstruction of buildings etc., without licence under Section 217-B*

*which reads as under:*

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**'217-B. Prohibition of construction or reconstruction of buildings, etc., without licence** (1) No person other than the Central or State Government or local authority, shall —

(a) construct or reconstruct a building on any land ; or

(b) put to use any agricultural land to any non-agricultural purpose ; or

(c) carry out any engineering, mining or other allied operations on any land, within the area of the hill station without a licence granted by the State Government and except in accordance with the terms and conditions specified in such licence.

*Explanation.— For the purpose of the provisions of this Chapter, "agriculture" includes, horticulture, fruit growing, seed growing, animal husbandry (including breeding of livestock), apiculture, pisciculture and sericulture and "agriculture" shall be construed accordingly.'*

12. Section 217-C speaks about application for licence and reads as under:-

**'217-C. Application for licence .—** (1) Every application for a licence under Section 217B shall be in such



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*form, contain such particulars and be accompanied by such plans and fee as may be prescribed and shall be submitted to the Executive Authority.*

*(2) On receipt of an application under sub-section (1), the Executive Authority shall, within such time as may be prescribed, examine the application with reference to such building rules as may be prescribed for the purpose of this Chapter and forward the same to the Committee.*

*(3) (a) For the purpose of this Chapter, the State Government may constitute a Committee called the Committee for Architectural and Aesthetic Aspects for all the hill stations in the State of Tamil Nadu, with such number of officials and non-officials and. having such qualifications as may be prescribed.*

*(b) The term of office of the non-official members of the Committee and other matters relating to the conduct of the meeting of the said Committee including the allowances payable to the non-official members shall be such as may be prescribed.*

*(4) The Committee shall examine every application received from the Executive Authority in all aspects and forward the same to the State Government with its remarks.*

*(5) The Committee shall, while examining the applications under sub-section (4), shall have regard to the following matters, namely :*

*(a) the application for grant of a licence complies with the*



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*provisions of this Chapter and rules made thereunder ;*

*(b) the proposed construction or reconstruction of the building or the purpose for which the land is proposed to be used will not be detrimental to the scenic beauty and natural environment of the hill station ; (c) the proposed construction or reconstruction of a building will aesthetically and architecturally harmonize with the landscape of the hill station;*

*(d) the possibility of the construction or reconstruction of building, the nonagricultural purpose for which the land is to be used or the carrying out of any engineering, mining or other allied operations,—*

*(i) creating unfavourable conditions upon the scenic beauty and natural environment of the hill station ; or (ii) resulting in concentration of population in and around the hill station ;*

*(e) that the proposed use of land will not lead to deforestation and soil erosion ;*

*(f) that the proposed use of land will preserve the special characteristics of the hill station as regards landscape, vegetative cover and climate of the hill station;*

*(g) the free, passage or way to be left in front of the building as may be prescribed ;*

*(h) the open space to be left about the building to secure free circulation of air and the prevention of fire and to facilitate scavenging ;*

*(i) the ventilation of the building, the minimum cubic area of*



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*the rooms and the number and height of the storeys of which the building may exist.*

*(j) the provision and position of drains, latrines, urinals and cesspools or other receptacles for rubbish or filth ;*

*(k) the level and width of the foundation, the level of the lowest floor and the stability, of the structure ; (1) the line of frontage, with neighbouring buildings if the building abuts on a street ;*

*(m) the means of egress from the building in case of fire ;*

*(n) the materials to be used for, and the method of construction of, external and partition walls, rooms, floors, fireplaces and chimneys;*

*(o) the height and slope of the roof above the upper-most floor on which human beings are to live or cooking is to be done;*

*(p) any other matter affecting the ventilation and sanitation of the building; and*

*(q) such other matters as may be prescribed.'*

**13. Section 217-D speaks about Grant of Licence as hereunder:-**

**'217-D. Grant of licence .—** On receipt of an application from the Committee with its remarks, the State Government, if satisfied that the grant of a licence will not result in the deterioration of scenic beauty or destruction of the environment and ecosystem of the hill station, may, grant a licence subject to such terms and conditions as they may



*think fit to impose, or refuse to grant a licence : Provided that a licence shall not be refused unless the applicant has been given an opportunity of making his representation.'*

14. Section 217-O speaks about Chapter to override other laws, reads as under:-

**'217-O. Chapter to override other laws .—** (1) *The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law, custom, usage or contract. (2) Save as otherwise provided in sub-section (1), the provisions of this Chapter shall, be in addition to, and not in derogation of, any other provisions of this Act.'*

15. Non-obstante clause provides that it is equivalent to saying that in spite of the provision or Act mentioned in the non obstante clause, the enactment following it will have its full operation or that the provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment (**South India Corporation (P) Ltd. Vs. Secy., Board of Revenue, Trivandrum<sup>1</sup>**). Thus a non obstante clause may be used as a legislative device to modify the ambit of the provision

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<sup>1</sup> AIR 1964 SC 207



of law mentioned in the non obstante clause to override it in specified circumstances (**Pannalal Bansilal Patil Vs. State of Andhra Pradesh**<sup>1</sup>).

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Section 217-O employs non obstante clause. Hence non obstante clause is significant as has been found by Hon' ble Supreme Court and this Court consistently.

16. In exercise of powers conferred by Section 217-C read with sub- Section (1) of Section 303 of Act, Rules are framed viz., Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993. Rule 1(2) states that they shall apply to all Hill Stations specified in Schedule II to the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) and to all other local bodies in hill areas to which Chapters IX, X and X-A of the said Act are extended.

17. Rule 7 provides location of building and reads as under:

'7. Location of Building.- (1) Every person who constructs, reconstructs or alters or adds to the building, shall wherever the site is within 15 metres of any tank, reservoir, water course, river, fresh water channel or well, carryout such measures as may be necessary or as the Government may direct for the purpose of preventing any contamination of or any risk of the drainage of the

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<sup>1</sup> 1996 (1) Scale 405



*building passing into such tank, reservoir, water-course, river fresh  
–water channel, or well.*

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*(2) No assignment of land shall be made for agricultural purpose or only other purpose including residential purpose within 150 metres from the boundaries of reserve forest and wooded lands or areas of special interest as may be declared by the Government from time to time.'*

18. *Holistic reading of the provisions of Chapter X-A of Act and the Rules framed thereunder viz., Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993, this Court is of the considered view that the said Chapter, Act and the Rules framed thereunder alone would apply for the purpose of grant of building plan permission/licence in hill stations.*

19. *Regarding the scope of master plan, as argued on behalf of the respondent, master plans are approved by the Government under the provisions of Town and Country Planning Act, 1971. Section 17 deals with master plan. Section 217-O of Chapter X-A provides to override other laws. Thus, question of applying the provisions of other laws inconsistent with Chapter X-A of Act would have no application. Special Act and the Rules framed thereunder would prevail over. Even after approval of master plan by the Government under the provisions of*



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*Town and Country Planning Act, while considering the application for grant of building plan permission/licence, authorities are bound to apply the provisions under Chapter X-A of Act and the Rules. These provisions are exclusively applicable and governing hill stations, to protect hilly areas, reserve forests, environment and ecology in forest areas. Thus, special Rules alone would apply and the general Rules cannot be applied for the purpose of grant of building plan permission/licence in hill stations.*

20. Regarding Rule 7(2) and its scope, Division Bench of this Court has considered in the case of **Srikanth Badruka** (cited supra) that Rule cannot be given restrictive meaning and the word 'assignment' since not defined either under the Act or Rules etc., read to mean assignment to include conveyance or transfer or part away with property etc., Paragraphs 14 and 16 of the Division Bench judgment read as under:

'14. We are unable to agree with the learned Senior Counsel for the Appellant for the simple reason that the embargo under Rule 7(2) of the Rules is with regard to the agricultural activities and residential purpose within the distance of 150 mtrs. from the Reserve Forest. Though the



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*expression "assignment" has not been defined either under the Act or Rules, we are of the view that it should not be given a restrictive meaning to mean as if assignment given by the Government but should be read to mean assignment to include conveyance or transfer or part away with property etc. Thus, the Rule clearly prohibits any residential activities within 150 mtrs from the boundaries of reserve forest and wooded land.*

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*16. We have seen Rule 7(2) of the Rules, which prohibits construction within a distance of 150 mtrs. The reason for rejection of the planning permission is due to the fact that the site in question is within 150 mtrs of the reserve forest. Therefore, when there is a prohibition from putting up construction within such distance, the Appellant cannot insist that the Respondent Municipality are bound to give planning permission in view of the no objection certificate given at the time of registration of the sale deed. Thus, the mere issuance of the no objection certificate dated 14.5.2007 does not entitle the Appellant for planning permission as a matter of right.'*

*21. Therefore, the argument that 'assignment' will not include 'conveyance' deserves no merit consideration. Any restrictive interpretation of the term 'assignment' would defeat the very purpose and*



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*objectives of Chapter X-A of Act and the Rules framed thereunder. That apart, Division Bench in unambiguous terms interpreted the scope of Rule 7(2) of Rules. Therefore, the findings of learned Single Judge in the impugned order is running counter to the scope of the provisions of Chapter X-A of Act and the Rules framed thereunder and the ratio laid down by the Division Bench of this Court in the case of Srikanth Badruka (cited supra).*

22. *Strong reliance has been placed by the learned counsel for respondent that learned Additional Advocate General, has given an undertaking in writing that in future, no application seeking building plan permission/licence will be rejected on the ground of Rule 7(2). Validity of such undertaking given by learned Additional Advocate General or authorities before the Court in contravention to the provisions of the special enactment and Rules framed thereunder is to be tested.*

23. *In the case of **Director of Elementary Education, Odisha & Ors v Pramod Kumar Sahoo**<sup>1</sup>, Hon'ble Supreme Court held as under:*

*'8. ....Therefore, the concession given by the State counsel is erroneous concession in law and, does not bind*

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<sup>1</sup> (2019) 10 SCC 674



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*the appellant. Reference was made to Himalayan Coop. Group Housing Society v. Balwan Singh & Ors. wherein, this Court held as under:*

*“32. Generally, admissions of fact made by a counsel are binding upon their principals as long as they are unequivocal; where, however, doubt exists as to a purported admission, the court should be wary to accept such admissions until and unless the counsel or the advocate is authorised by his principal to make such admissions. Furthermore, a client is not bound by a statement or admission which he or his lawyer was not authorised to make. A lawyer generally has no implied or apparent authority to make an admission or statement which would directly surrender or conclude the substantial legal rights of the client unless such an admission or statement is clearly a proper step in accomplishing the purpose for which the lawyer was employed. We hasten to add neither the client nor the court is bound by the lawyer's statements or admissions as to matters of law or legal conclusions....”*

*(Emphasis supplied)'*

*24. Therefore, any undertaking of the law officer running counter to the Act or Rules cannot be relied on by the Courts for the purpose of considering the issues. That apart, undertaking given by learned*



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*Additional Advocate General is not only running counter to the law but would take away the objectives of Chapter X-A of Act and Rules framed thereunder. Any such undertaking cannot be relied upon for the purpose of grant of building plan permission/licence in hill stations.*

*25. Since any construction of building in violation of Act and Rules would cause damage to the environment, ecology and forest in hill stations, the competent authorities in hill stations are expected to be cautious and follow the applicable provisions scrupulously. In the event of any lapses, negligence or dereliction in implementing the provisions of law, the said authorities must not only be held responsible and accountable but must be prosecuted and subjected to departmental disciplinary proceedings.*

*26. Hill stations if not preserved, consequences would be disastrous and this exactly is the reason why constitutional Courts have time and again reiterated that hill stations and forest areas are to be protected. It is a constitutional mandate on the part of State and Centre and duty mandated on the citizens of India.”*



7. In view of the above legal position, the application submitted seeking building plan permission in Hill Station are to be considered strictly in accordance with the provisions of the Act and Hill Station Rules framed thereunder. Master Plan Scheme cannot supersede the provisions of the Act. Thus, this Court does not find any infirmity in respect of the rejection order passed which in consonance with the Hill Station Rules.

8. In view thereof, we find that the order of the learned Single Judge to consider only the Master Plan 2011 issued pursuant to and in terms of G.O.Ms.No.50 dated 22.05.2011 and also the revised Master Plan dated 01.04.2015 is ill-founded inasmuch it is necessary for the application to be considered in accordance with relevant rules namely Tamil Nadu District Municipalities (Hill Station) Building Act and Rules, 1993.



9. If we keep that in mind and on examination of the impugned order made pursuant to the above provisions, we find that order rejecting the application is in accordance with the said Act and Rules. The Writ Order dated 04.09.2020 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

**[S.M.S., J.]**

**[M.S.Q., J.]**

**19.11.2025**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/ No  
mka

To:  
1.Mr.P.Sarootham,  
Registered Power Agent  
S/o. P.K.Padmanabhan,  
Residing at BT-43, Belmont Terrace,  
Tiger Hill Road, Melthalayattimund,  
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**S.M.SUBRAMANIAM, J.**  
**AND**  
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