

V. Anand Kumar vs The State Of Tamil Nadu on 13 October, 2026

WP.No.1977 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On:
13.07.2026

Pronounced On:
13.10.2026

CORAM
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN
WP No. 1977 of 2026

V. Anand Kumar
S/o.Mr.Venkatesh, No. 6/522,Gandhi Nagar,
Thalaikundah, Udhagamandalam.

Petitioner(s)

Vs

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Department of Housing and Urban Development,
Tamil Nadu Secretariat, Fort St. George, Chennai
-600 009.
2.The Director,
Department of Town and Country Planning, 2nd, 3rd
and 4th Floor, C & E market Road, Koyambedu.
3.The District Collector,
Nilgiris District, 171,Church Hill Rd, Near
Charing Cross, Pudumund, Ooty-643001.
4.The Commissioner,
Udhagamandalam Municipality, Hospital Rd,
Upper Bazar, Ooty-643 001.
5.The District Forest Officer,
Udhagamandalam.
(R5 suo motu impleaded vide order dated
09.02.2026 made in WP.No.1977 of 2026)

Respondent(s)

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PRAYER To issue a writ of mandamus, directing the respondent to process the building permit application submitted by the petitioner bearing application No.00762-2025 AQ dated 27.08.2025 and pending with the 3 rd and 4th respondents, within the time frame to be fixed by this Hon'ble Court.

For Petitioner(s): Mr.Abudu Kumar Rajarathinam, Senior Counsel
for M/s.G.Rkishnakumar

For Respondent(s): Ms.C.Meera Arumugam
Additional Government Pleader for RR1 to 3

Mr.M.Suresh Kumar

Additional Advocate General
for Dr.T.Seenivasan
Special Government Pleader for RR 4 & 5

Mr.P.V.Balasubramaniam
Additional Advocate General
Assisted by Mr.Abraham Prabu
Counsel for Government of Tamil Nadu
ORDER

The petitioner claims to be the absolute owner of the property comprised in Old S.No.4868/2B1, 4869/2, 4870/2, T.S.No.A-1/66, Seegure Road, Udhagamandalam Town (hereinafter referred to as “Ooty”). The extent of the petitioner’s property is about four cents. The property is a private patta land. The petitioner states that for the town of Ooty, the Town Planning Authorities have notified a Master Plan. As per this Master Plan, the petitioner’s property falls in a primary residential zone.

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2.With an intention to put up a superstructure over the property, the petitioner filed an application seeking a license for construction on 27.08.2025. The petitioner proposes to construct a building to an extent of 226.84 sq.mts. Though the application was made in August, 2025, it was kept pending without further process. Therefore, the petitioner approached the 4 th respondent to find out the fate of his application. He was informed, that as the property falls within 150 metres of a reserve forest, his application could not be processed. The 4 th respondent claimed that there is a ban on granting approval for construction of property in terms of Rule 7(2) of the Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993 (hereinafter referred to as ‘1993 Rules’).

3.The petitioner states that such an objection is untenable, as Rule 7(2) of the 1993 Rules is restricted only to the assignment of land and it does not cover construction over private lands. To this effect, he relies upon the proceedings of the Department of Town and Country Planning dated 16.10.2010. The petitioner states that the respondents had given him a copy of the judgment in [Srikanth Badruka Vs. The Commissioner, Ooty Municipality](#), 2011 (1) MLJ 883, which held that assignment also includes conveyance. He points out that this Court in [B.Nagaraj Vs. The Commissioner, Udhagamandalam Municipality](#) in W.P.No.6674 of 2023 dated 03.03.2023, had distinguished the judgment in Srikanth Badruka’s case, referred to by the Municipality for not processing the 3 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 application. He adds that the case referred by the Municipality for not processing the application in [The Commissioner, Udhagamandalam Municipality Vs. L.Loganathan](#) in W.A.No.2542 of 2023 dated 12.11.2025, had also followed Srikanth Badruka’s case.

4.The petitioner pleads that on account of the stand taken by the 4 th respondent in neither rejecting the application nor approving it, persons in position akin to the petitioner are not able to develop their property which they have purchased out of their hard earned funds. The petitioner alleges that the right to construct the property is a fundamental right under [Article 21](#) of the Constitution of India and keeping the application pending without grant of approval reeks of arbitrariness and is unconstitutional. Being left with no other alternative, the petitioner is before this Court.

5.This Court entertained the writ petition and called upon the respondents to go by way of a counter.

6.Noticing that the District Forest Officer had not been impleaded as a party, he was suo motu impleaded as the 5th respondent by an order dated 09.02.2026.

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7.The respondents have filed a counter.

8.It is the stand of the respondents 1 to 3 that Rule 7 of the 1993 Rules were framed in view of the ecological sensitivity of Hill Stations in the State of Tamil Nadu. It was also framed for the purpose of preserving of the forest boundaries. It pointed out that the Government of Tamil Nadu had approved a Master Plan for Udhagamandalam under [Section 28](#) of the Town and Country Planning Act, 1971. The Master Plan had been notified on 25.02.2011. The said Master Plan had notified several zones including residential zone, commercial zone, wooded areas and

reserve forest areas, etc. It is asserted that the Master Plan, while identifying the zones, also called upon the parties to comply with the 1993 Rules. The Master Plan cannot be interpreted in isolation of the 1993 Rules.

9.The counter further asserts that while the Rule only prohibits assignment, it has been interpreted by this Court in Srikanth Badruka's case to include conveyance also. Therefore, the petitioner's application cannot be considered. It has pointed out that, Srikanth Badruka's case has been confirmed by the Supreme Court and followed in [The Commissioner Vs. C.P.Mathan](#), in W.A.No.3101 of 2023 dated 19.11.2025. 5 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026

10.It is further urged that the Development Control Rules, which form part of the Master Plan, also recognise the 1993 Rules. Therefore, any development that is undertaken in Ooty would have to be as per the Development Control Rules in the Master Plan and the 1993 Rules. It is pointed out that the Development Control Rules have been repealed and replaced by the Tamil Nadu Combined Development and Building Rules, 2019. Rule 26 of the 2019 Rules has expressly preserved the applicability of the 1993 Rules under the present regime also. As the savings clause under the Local Body Rules has saved 1993 rules, the respondents urge that the 1993 Rules would have to be given precedence.

11.It is further pointed out that the buffer zones containing the reserve forest areas are subject to variation and regulation from time to time according to the 1993 Rules, but the Master Plan is rigid and cannot be modified with ease. On these pleadings, the respondents 1 to 3 have left it to the Court to pass appropriate orders as are necessary in the circumstances of the case.

12.The 4th respondent has filed a counter. The 4 th respondent admits that the petitioner had submitted an application seeking the building plan on 27.08.2025. It claims that the Municipality only processes the applications and issues final approval after clearance or "no objection" certificate are obtained 6 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 from the concerned department. In case, any department raises any objection or seeks verification, the Municipality is bound to await an appropriate response and cannot act independently. It is pointed out that as per the proceedings of the District Level Building Approval Committee, no building plan in hill stations can be approved, unless it is scrutinised by the said committee. Additionally, in areas like Ooty, scrutiny by the Forest Department is also necessary in order to verify whether the property under development is in close proximity to reserve forest, eco-sensitive zones or wooded lands. Therefore, the petitioner has forwarded the application to the Forest Department.

13.The 4th respondent states that till date it has not received any intimation from the Forest Department whether the property is within 150 metres of the reserve forest boundary. It adds that the Municipality has not received any authenticated demarcation, GPS coordinates, forest boundary map or survey report from the Forest Department establishing that the petitioner's land is located within the prescribed distance.

14.It is further urged that if and when the Forest Department grants "no objection" certificate or confirms that the land is not affected by forest restrictions, the Municipality will process the application in accordance with law. Therefore, it urges that the blanket direction as sought for in the writ 7 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 petition to issue building permission without availing the statutory clearance is not maintainable and consequently, it seeks dismissal of the writ petition.

15.Dr.T.Seenivasan, Special Government Pleader for Forest Department has produced instructions given by the District Forest Officer, Udthagamandalam, dated 16.02.2026 to this Court.

16.The instructions state that the Forest Ranger Officer, Udthagai North Range, had inspected the property. The inspection report reveals that the property does attract the provisions of the [Tamil Nadu Preservation of Private Forests Act, 1949](#) (TNPPF Act). The property is also not situated within any notified Elephant Corridor. The property is at a distance of 15 kilometres from the Mudumalai Tiger Reserve. However, the property is at a distance of 120 metres from Muthinadu Section, Aramby Beat, Brooklands Reserved Forest and about 110 metres from the Wenlock Downs Reserved Forest. The instructions also rely upon the judgments of this Court to urge that no construction activities can be carried on within 150 metres of any reserve forest or wooded land area.

17.The instructions further note that the file relating to the petitioner is under process for re-verification of the exact distance from the reserved forest boundary. On receipt of the same, further action will be initiated. 8 / 43

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18.Mr.Abudu Kumar Rajarathinam, learned Senior Counsel appearing for Mr.G.R.Krishnakumar submitted as follows:-

(i) There is no dispute on the title or the filing of the application for raising a superstructure.

(ii) Inviting the attention of the Court to the 1993 Rules, he points out the word ‘assignment’ is not defined under the 1993 Rules. The only prohibition relating to construction is found under Rule 5(5). He states that what is prohibited under Rule 7(2) is “assignment”.

(iii) The petitioner has a fundamental and constitutional right to develop a property in terms of [Article 300A](#) of the Constitution of India.

(iv) The argument that the writ petitioner has no cause of action is baseless as no action has been taken by the respondents pursuant to his application.

(v) The judgment of this Court in Srikanth Badruka’s case did not relate to a primary residential zone, but to a woody area and therefore, it cannot be a precedent to the present case.

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(vi) The view taken by this Court in L.Loganathan’s case that the [District Municipalities Act, 1920](#) will override the Master Plan notified under the [Town and Country Planning Act](#) by virtue of Section 217-O of the 1920 legislation, cannot be considered as good law in view of the judgment of the Supreme Court in Naveen Solanki and another Vs. Rail Land Development Authority and others, 2026 INSC 270.

19.He relied upon the following judgments to substantiate his plea:-

(I) [D.J.Davis Vs. The Principal Secretary to Government and another](#), in W.P.(MD).No.13276 of 2017 dated 22.09.2017; (II) [K.Karthick Vs. The Principal Secretary to Government and another](#), 2017 SCC OnLine Mad 28640;

(III) [T.Vijayalakshmi Vs. Town Planning Member](#), (2006) 8 SCC 502;

(IV) R.K.Mittal and other VS. State of Uttar Pradesh and others, (2012) 2 SCC 232;

(V) [Chairman Indore Vikas Pradhikaran Vs. Pure Industrial Coke & Chemicals Ltd.](#), (2007) 8 SCC 705;

(VI) [Madhya Pradesh Housing & Infrastructure Development Board and another Vs. Vijay Bodana and others](#), (2020) 4 SCC 521;

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<https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 (VII) [Yerikala Sunkalamma and another Vs. State of Andhra Pradesh and others](#) in Civil Appeal No.4311 of 2025 dated 24.03.2025 (VIII) [Premlata @ Sunita Vs. Naseeb Bee & Others](#), in Civil Appeal Nos.2055-2056 of 2022 dated 23.03.2022;

(IX) [Central Warehousing Corporation VS. Adani Ports Special Economic Zone Limited \(APSEZL\) and others](#), 2022 LiveLaw (SC) 839;

(X) [Union of India and others Vs. N.Murugesan and others](#), (2022) 2 SCC 25;

(XI) [State Bank of India Vs. Union of India & others](#), in Civil Appeal Nos.1810 of 2021, dated 13.02.2026;

(XII) [Union of India Vs. Chajju Ram \(Dead\) by Lrs and others](#), (2003) 5 SCC 568 and (XIII) [National Insurance Company Limited Vs. Pranay Sethi and others](#), (2017) 16 SCC 680.

20.Per contra, Mr.M.Suresh Kumar, Additional Advocate General appearing for both Dr.T.Seenivasan and Ms.Meera Arumugam made the following submissions:-

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(i)Though the petitioner's property is a free hold patta land and is situated in a primary residential zone, the petitioner's application cannot be processed as it is situated within 150 metres of a reserved forest.

(ii)The Master Plan for Ooty, though it is conclusive with respect to the areas classified as primary residential zone, is held back by Rule 7(2) of the 1993 Rules which prohibits the assignment of land in certain specific areas.

(iii)Srikanth Badruka's case and L.Loganathan's case conclude the term "assignment" include conveyance, therefore the petitioner cannot construct on the land purchased by him. Therefore, the application of the petitioner cannot be considered based on the Tamil Nadu Regularisation of Unapproved Layouts and Plots in Hill Areas Rules, 2020.

21.Mr.P.V.Balasubramaniam, Additional Advocate General also endorsed the views made by Mr.M.Suresh Kumar and urged that the writ petition deserves dismissal.

22.I have carefully considered the submissions of all sides. I have gone through the records in detail.

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23.There is no dispute as regards the title of the petitioner or that he had filed an application for grant of permission to raise a residential superstructure in and over his property. Across the bar, there is no dispute that the property is situated in a Primary Residential Zone as per the Master Plan evolved for the Town of Ooty.

24.The respondents feel that the judgments in Srikanth Badruka's case and L.Loganathan's case prevent them from considering the petitioner's application. This is because the report of the Forest Officer points out that the petitioner's property is situated about 110 to 120 metres from the reserved forest area.

25.This Court has to decide whether the interpretation that has been given to Rule 7(2) of the 1993 Rules by the Municipality is correct and the effect of the subsequent judgments of the Supreme Court which have interpreted [Article 300A](#) of the Constitution of India as well as the scope and application of the Master Plan.

26.Rule 7(2) of the 1993 Rules reads as follows:-

“7.Location of Building:-

(2) No assignment of land shall be made for 13 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 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.”

27.A perusal of this Rule indicates that no “assignment” of land is permissible for agricultural or any other purpose if it is situated within 150 metres from the boundaries of reserve forest or a woody area or areas of special interest. Hence, this Court would have to look into the difference between “assignment” and “conveyance” and as to how these terms have been interpreted by the Constitutional Courts.

28.The 1993 Rules do not define the word “assignment”. Rule 2(xxix) of the 1993 Rules states that the words and expressions used in the Rules but not defined by them should be given the same meaning as assigned to them under the parent [Act, the Tamil Nadu District Municipalities Act, 1920](#) (hereinafter referred to as the “1920 Act”). The 1920 Act also does not have any definition of the word “assignment”.

29.The Supreme Court in [Maheshwari Fish Seed Farm Vs. Tamil Nadu Electricity Board and another](#), (2004) 4 SCC 705 had pointed out that where a word or expression is not defined in the statute, it must be construed in its 14 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 natural, ordinary or popular sense. This being the sense in which, it has to be understood by a person conversant with the word and the subject matter of legislation and to whom the enactment is addressed. Legislation not expressed in technical terms, is directed to the common run of men and therefore, is to be understood according to the sense of thing as ordinary man has a right to rely upon the ordinary words.

[30.In State of Orissa Vs. Titaghur Paper Mills Company Limited](#), AIR 1985 SC 1293, the Supreme Court held that dictionary meaning of a word cannot be resorted to where the word has been statutorily defined or judicially interpreted. In case, there is no such definition or interpretation, the Court may legitimately take the aid of the dictionaries to ascertain the meaning of the word in common parlance. The Supreme Court cautioned the Courts from referring to dictionaries casually. It called upon the Court to bear in mind that a word may carry different senses according to its context and that a dictionary merely catalogues all possible meanings. Hence, it is the duty of the Court to select that particular meaning which is relevant to and consistent with the context, scheme and object of the statute in which it appears.

31.Let us now come into the difference between ‘assignment’ and ‘conveyance’.

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32.‘Conveyance’ falls under the law of real property. [The Transfer of Property Act, 1882](#) (hereinafter referred to as ‘1882 Act’) does not use the word ‘conveyance’.

33.”Conveyance” is defined under [The Indian Stamp Act, Section 2\(10\)](#) of the said legislation states conveyance includes a conveyance on sale and every instrument by which property, whether movable or immovable is transferred inter vivos and which is not otherwise specifically provided for by Schedule I. This shows by a conveyance whatever right, title and interest the transferor has over the property stands transferred in favour of the transferee. Conveyance is an extremely wide term. As seen from [Section 2\(10\)](#), it covers any transfer of real property under the definition. As a normal usage, conveyance covers entire title. If conveyance is to be treated as matrix, assignment is a sub set of the same.

34.[Section 5](#) of the 1882 Act speaks of a living person conveying a property. There are several modes of conveyance. They are:-

- (i) ‘Sale’ as per [Section 54](#);
- (ii) ‘Mortgage’ as per [Section 58](#);
- (iii) ‘Lease’ as per [Section 105](#);
- (iv) ‘Exchange’ as per [Section 118](#);

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- (v) ‘Gift’ as per [Section 122](#).

35.Assignment under the 1882 Act is found under [Sections 6, 108, 130](#) and [132](#) of the 1882 Act.

36.[Section 108\(j\)](#) confers the power on a lessee to transfer absolutely or by mortgage or sub-lease. [Section 130](#) of the 1882 Act speaks of assignment of auctionable claims and so does [Section 132](#). Assignment under the 1882 Act deals only with intangible and existing interests.

37.In Tamil Nadu and other areas under the Old Madras Presidency, “assignment”, ordinarily means a grant of land by the Government in favour of a citizen or private person. This is broadly covered by the Standing Orders of the Board of Revenue. Reference can be made to BSO 15 and 15A. The manner of assignment is by darkhast and is evidenced by a D-form patta. Darkhast is derived from Urdu. It means an “application” or “petition”. In matters of assignment, it means an application made by a person seeking allotment or grant of Government lands.

38.The assignment made by the Government is not a conveyance inter vivos as is understood under the 1882 Act. It is a grant by the execution of the 17 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 land which belongs to the State. The manner of assignment is broadly governed by the Standing Orders of the Board of Revenue. The Standing Orders are statutory in nature on account of the [Tamil Nadu Board of Revenue Abolition Act, 1980](#).

39.The word “assignment” is defined in the dictionary as “an immediate transfer of an existing property, right or benefit vested in confidence from one party to another”. The restriction in Rule 7(2) prohibits any transfer of rights with a specified purpose within the prescribed buffer zone around reserve forest, community area or areas of special interest. It should be pointed out that assignment of Government land was governed under the [Government Grants Act, 1895](#), and thereafter, by the darkhast Rules and presently by several rules, including the Standing Orders of the Board of Revenue. The provisions of the 1882 Act do not apply to Government grants. The State has an unfettered discretion to impose such conditions as may be necessary, including absolute powers against alienations or restrictions on the assignee. This is essentially because, in case of transfer of property under the 1882 Act, once a property is sold by the vendor to a purchaser, he cannot impose restrictions on him. [Section 10](#) of the 1882 Act declares that restrictions or conditions restraining alienations of a property are void. Similarly, [Section 11](#) declares as void any directions given with respect to the nature of enjoyment that are inconsistent with the 18 / 43

<https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 transferred interest. Reference can also be made to [Section 12](#). In order for the State to have unbridled discretion to resume the land in case of the breach of the assigned conditions, assignment of land are brought out of the 1882 Act and governed as per the orders of allotment.

40.I need not trouble myself much with these differences as the same has been extensively gone into by the Supreme Court in The State of Telangana and others Vs. Dr.Pasupuleti Nirmala Hanumantha Rao Charitable Trust, (2025) 7 SCR 1. The case arose under the following circumstances:-

41.In and around February, 2001, the Government of the then United Andhra Pradesh alienated an extent of 3.01 acres of its land in favour of the respondent trust. The transfer was as per the Telangana Alienation of State Lands and Revenue Rules, 1975. The Trust paid the full market value for the said land. One of the conditions imposed at the time of alienation was that the land so assigned must be utilized for public or charitable purposes only. Even though the Trust had paid the full amount for the purchase, the State retained the right of resumption without payment of any compensation in the event of breach.

42.The Trust instead of using the land for public utility, executed a 19 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 general power of attorney. On the strength of this power, the property was developed into a residential colony. Plots were also sold to third parties. On coming to know of the breach of the condition, the State issued an order of resumption.

43.Aggrieved by the said order, the Trust filed a writ petition before the Telangana High Court. The Writ Court as well as the Writ Appellate Court held that the State of Telangana could not have passed an order of resumption. Aggrieved by the same, an appeal was preferred before the Supreme Court. The specific issue that Dipankar Datta and Manmohan JJ., were called upon to answer is

(i)Whether alienation of land by the State as per the statutory rules upon payment of market value is an absolute sale or a conditional statutory allotment?

(ii)Whether the provisions of [Section 10](#) of the Transfer of Property Act applies to Government land of allotment?

44.The Supreme Court, while answering the first issue, pointed out that a drastic difference exists between private alienation of land on the private land, inter-parties and public land being assigned or alienated. As the lands had been alienated under the Telangana Alienation of State Lands and Revenue Rules, 20 / 43 <https://www.mhc.tn.gov.in/judis>

WP.No.1977 of 2026 1975, and the Standing Orders of the Board of Revenue, the Court concluded that it was a statutory allotment governed by administrative law and not a case of sale governed by the [Transfer of Property Act](#). The Court further held that based on the mere fact that the entire market value had been paid, it would not automatically convert a public grant into an unconditional sale.

45.Insofar as the second issue is concerned, the Supreme Court pointed out that [Section 10](#) of the Transfer of Property Act does not eclipse or nullify the statutory allotment / assignment Rules. It observed that the State acts as a custodian of the public property and consequently, it is duty bound to ensure that the condition to its allotment is followed, in order to ensure that the land was being used for public and charitable purposes for which they are being alienated. Thus, even though the State has received full consideration of the land, it had the power to enforce assignment Rules and thereby pass an order of resumption, as they were valid, binding and enforceable.

46.Having come to this conclusion, the Supreme Court held that the view taken by the Single Judge and the Division Bench of the High Court cannot be sustained. It consequently allowed the appeal and set aside the order of the High Court and permitted the resumption of the lands.

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47.This judgment is a precedent for the proposition that ‘assignment’ and ‘conveyance’ are entirely two different aspects. While conveyance is governed by the 1882 Act, assignment is done so as per statutory schemes as in the Standing Orders of the Board of Revenue. Insofar as Tamil Nadu is concerned, reference can also be made to the Tamil Nadu Land Revenue Grants Act, 1961 and the [Tamil Nadu Bhoodan Yagna Act, 1958](#), etc.,.

48.Therefore the view held in Srikanth Badruka’s case and L.Loganathan’s case that assignment includes conveyance cannot be said to be binding as precedent after the verdict of the Supreme Court in The State of Telangana and others Vs. Dr.Pasupuleti Nirmala Hanumantha Rao Charitable Trust, cited supra.

49.I do not want to rest my conclusion only on the basis of the judgment of the Supreme Court in The State of Telangana and others Vs. Dr.Pasupuleti Nirmala Hanumantha Rao Charitable Trust, cited supra, referring to the difference between ‘assignment’ and ‘conveyance’. I would like to look at it in another angle.

50.By virtue of the Seventh Schedule to the Constitution of India, the management and assignment of lands falls within the jurisdiction of the State. 22 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 Entry 45 List-II which deals with land revenue, encompasses in itself the assignment and collection of land revenue, maintenance of records connected therewith and also administration through the Revenue Department. In addition, Entry 18 of this List empowers the State legislations to exclusively deal with “land”, whereas with respect to “transfer of property other than agricultural lands”, it does not fall under List II. It falls under Entry 6 of List III of the Seventh Schedule. Therefore, both the Central and the State legislations have the jurisdiction to enact laws on this subject. [The Transfer of Property Act](#), being the Central legislation, occupies the State field. If Rule 7(2) of the 1993 Rules were to be interpreted as a restriction for alienation of lands by the owner within 150 metres of forest land, then it would operate as if the right to transfer the property under [Section 54](#) of the Transfer of Property Act has been restricted by this Rule.

51.First, a Rule cannot override a statute. Keeping this fundamental principle aside, there is another huge constitutional obstacle if it so interpreted as submitted by the learned Additional Advocates General. Even if the State was to pass a legislation, let alone notify Rules, and such legislation attempts to interfere with the powers conferred by the Parliamentary legislation, immediately [Article 254](#) of the Constitution will apply. If a State amendment is in conflict with the Central Act even before the bill becomes a law, it must be 23 / 43

<https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 reserved for the assent of the President of India. It is only after the assent is granted by the President of India under [Article 254\(2\)](#), can the amendment made by a State legislation, which is in conflict with the Central law, prevail in the concerned State.

52.The question that arises by giving a wide interpretation as sought to be given by the respondents to Rule 7(2), throws up a question as to “whether Rule 7(2) operates as a scalpel in the hands of the municipality to amputate a person’s right to sell his own land or whether it is a mere lantern hung at the edge of the State Government’s estate restricting its powers of alienation of its lands by way of assignment?”

53.The 1993 Rules were born out of the power exercised under Section 217-C read with Section 303(1) of the 1920 Act. The title of the Chapter that deals Rule 7 itself starts in a very modest way “location of a building”. Nowhere does the Rule deal with a right of a person to alienate his property which has a competent right under [Article 300A](#) of the Constitution of India.

54.Every rule is like a river. It is true, in nature, as well as in law that no river may rise above its source. The source of 1993 Rules is Chapter X-A of the 1920 Act. The purpose of this Chapter is to curb unplanned growth of buildings 24 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 in hill stations and to regulate construction of buildings and the use of lands therein. Section 217-B confines the power of a local body and in this case, the Ooty Municipality, to three particular aspects alone:-

- (i)Raising or re-building of a superstructure;
- (ii)Converting agricultural land to any other purpose;
- (iii)Carrying out engineering, mining or allied operations.

55.Section 217-C(2) speaks about building rules to be prescribed for the purpose of serving the Chapter X-A of the 1920 Act.

56.It is clear that this Section has been incorporated for the purpose of serving Chapter X-A. An entire analysis of Chapter X-A from one end of the spectrum till the other does not disclose any clause made by the legislature dealing with transfer of property. The only aspect that this Court is able to discern from the said chapter is that it governs what the owner of the land may do with it. It is entirely silent nor does it deal with it the aspect of whether he can part with it or not.

57.If the plea of the learned Additional Advocates General is accepted and the word ‘assignment’ is included to cover sale also, then the Rule would exceed the scope of the parent statute. It will stand exposed to the challenge to 25 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 its very validity. This Court will usefully refer to the judgment in [Kunj Behari Lal Butail and others Vs. State of Himachal Pradesh and others](#), (2000) 3 SCC 40. A bench consisting of S.Saghir Ahmad, R.C.Lahoti and Y.K.Sabharwal,JJ laid down the principles that govern subordinate legislations. The Bench held the executive in the exercise of its rule making power cannot introduce substantive rights or obligations or disabilities that are not contemplated by the parent Act. The matter arose before the Supreme Court under the following circumstances.

58.The State of Himachal Pradesh piloted and enacted the [Himachal Pradesh Ceiling on Land Holdings Act, 1972](#). [Section 5\(g\)](#) of this legislation explicitly exempted “tea estates” from the operation of the Act. The State Government was empowered to frame rules for carrying out the purposes of the said legislation. This was under [Section 26](#) of the said Act.

59.The rules framed initially in the year 1973 classified certain lands as subservient to tea plantations. 13 years after the original rules had been framed, the State Government inserted a proviso to Rule 3(1). Under this proviso, the State Government declared no land treated as subservient to tea plantation can be transferred in any manner without prior permission of the State. Following up this rule, the State Government issued a circular directing the authorities 26 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 under the [Registration Act](#) to refuse registration of sale deeds in line with proviso to Rule 3(1).

60.Kunj Behari Lal Butail attempted to alienate the property covered under proviso to Rule 3(1). Implementing the 1986 Rules and the 1990 Circular issued to the Registration Department, the sale was rebuffed. Hence, proceedings were initiated before the High Court challenging the constitutional validity of the 1986 Rules and the 1990 Circular. The High Court of Madhya Pradesh dismissed the writ petition upholding the Rule and the Circular. The High Court

held that the purpose of the parent Act was to enforce land ceiling limits and since 'tea estates' were completely exempted from the State legislation, land owners could abuse the provision, taking advantage of this exemption. Consequently, it concluded that the 1986 amendment requiring prior State permission was a legitimate delegation of ancillary exercise of rule making power under [Section 26](#).

61. On an appeal to the Supreme Court, as pointed out above, the Bench held the delegation of the power to make Rules was only for the purpose of carrying out the purposes of the parent Act and it was a general delegation. It only permits the executives to bring into operation what has already been enacted in the statute. Under the guise of delegated power, the executive cannot 27 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 make rules which create new obligations and liabilities that were not even envisioned by the legislature while formulating the parent statute.

62. The Bench pointed out the delegated legislation is entirely subordinate to the parent Act and the rules cannot create a requirement which is not found under the parent legislation. Therefore, the learned Additional Advocates General cannot urge that by virtue of the rules enacted under the delegated power, matters which the 1920 Act itself had not concerned itself with can be brought within the sweep of the rules.

63. I will refer to Section 217-B(1) of the 1920 Act at this stage. This provision exempts local bodies, State and Central Governments from the requirements of that Chapter. If not for Rule 7(2), the State could give away the lands which it owns abutting a forest. It was to restrain such an alienation that the State made the Rule to restrain itself and its subordinate authorities from exercising the power of assignment of parting away its properties when it falls within the mischief of Rule 7(2).

64. Rule 7(2) restrains the State from assigning its own land within the forest limit. By no stretch of imagination can the plea of the learned Additional Advocates General that it operates as a bar for conveyance and therefore 28 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 prevents a private owner from conveying his land can be countenanced by this Court. It is a fundamental principle of statutory interpretation that a Rule must be so read that it stays within its parent Act and achieves the purpose for which it had been made. Rule 7 read as a whole deals location of buildings and manner of construction. At no point of time, it attempted to exceed the scope of the delegated power. Therefore, the expansive interpretation attempted to be given by the respondents to Rule 7(2) of the 1993 Rules cannot be accepted by this Court.

65. The apprehension of the learned Additional Advocates General that there will be rampant construction abutting forest areas if the restrictions are not imposed is equally totally misplaced. This is because, the construction in hill station requires clearance from the Architectural and Aesthetics Aspects (AAA) Committee and for certain cases from the Hill Area Conservation Authority (HACA). Even before the applications are scrutinised by the AAA Committee and the HACA, a "no objection" certificate from the Forest Department is required. Forest clearance is not tied to any distant areas other than under the [Forest Conservation Act](#). Under this legislation, no objection certificate is mandated from the Forest department if the construction is within 500 metres of a forest.

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66. In any event, the nature of construction and the use are already controlled by Chapter X-A of the 1920 Act and Rules made thereunder. Section 217-C(5)(e) demands the Committee to consider whether the proposed use will lead to de-forestation. When the Section itself speaks about de-forestation, it only implies that the AAA Committee and the local planning authority have to vet and approve proposed construction only after being satisfied with ecological stability. Care and caution are required for the Committee to find out if the construction activity would result in de-forestation. If the entire process of development of land is to be banned, as argued by the learned Additional Advocates General, then it will be rendering Section 217-C(5)(e) otiose. The construction of a statute has to be made in such a manner that no Section or Part thereof are rendered redundant. When a practical construction is clear, manifest and without doubt, that construction ought to prevail unless there be some strong and obvious reason to the contrary, (See, People's [Union For Civil Liberties VS. Union of India and another](#), (2005) 5 SCC 363).

67. The best possible interpretation of a statute is giving its plain meaning. When the statute is clear and unambiguous, it is not necessary to look into the legislative intention or the object of the Act. Such an exercise is necessary only when the legislative intention is vague. As the said situation does not prevail, this Court takes the

statute and the rules as they stand and construe them as per 30 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 their national meanings. This Court cannot add or delete a provision through the process of interpretation.

68.At this stage, the Additional Advocates General pointed out that the order passed in Srikanth Badruka's case had been confirmed by the Supreme Court. Though the Additional Advocate General did not give the judgment of the Supreme Court, this Court was able to get a copy of the same from the website of the Supreme Court. A perusal of the order passed in SLP. (Civil).No.14696 of 2010 dated 04.10.2017 showed that the SLP had been dismissed in limine. It has been settled by the Supreme Court in [Khoday Distilleries Limited Vs. Sri Mahadeshwra Sahakara Sakkare Karkhane Ltd.](#), (2019) 4 SCC 376 and State of Orissa Vs. Dharendra Sundar Das and others, (2019) 6 SCC 270, that in limine dismissal of an SLP does not amount to declaration of law and operate as binding precedents.

69.When the Supreme Court dismissed an SLP by a non-speaking order as in Srikanth Badruka's case, all that it conveys is that the Supreme Court has refused to exercise its discretionary jurisdiction under [Article 136](#) of the Constitution of India. It cannot be construed to mean that the Supreme Court has affirmed the reasons given in Srikanth Badruka's case. Therefore, I am duty bound to follow the latest pronouncement of the Supreme Court in The 31 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 State of Telangana and others Vs. Dr.Pasupuleti Nirmala Hanumantha Rao Charitable Trust, cited supra, which has explained the difference between 'conveyance' and 'assignment' and the application of the [Transfer of Property Act](#) and the statutory rules of assignment.

70.Therefore, I am not in a position to accede to the request of Additional Advocate General to dismiss the writ petition on the ground that the area is covered by the judgments of Srikanth Badruka's case and L.Loganathan's case.

71.I shall now turn to the submissions on whether the District Municipalities Act overrides the provisions of the [Tamil Nadu Town and Country Planning Act, 1971](#) and the Development Control Rules framed under the Master Plan by virtue of Section 217-O of the 1920 Act.

72.The Supreme Court has consistently held that a non obstante clause must be confined to the conflicts which was intended to address and cannot be given a wider operation than what the context requires. (See, [Aswini Kumar Ghose Vs. Arabinda Bose](#), AIR 1952 SC 369). Furthermore, it is the duty of a Constitutional Court while interpreting two statutes to read the same harmoniously rather than giving the interpretation will result in the destruction 32 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 of one or the other. (See, [R.S.Raghunath Vs. State of Karnataka](#), 1991 INSC

253).

73.Town planning, as a legislative concept, contemplates the orderly regulation of the use and development of land so as to secure the health, safety, convenience and general welfare of the community, while preserving the distinctive character of sensitive regions. [The Tamil Nadu Town and Country Planning Act, 1971](#), which was enacted with the object of providing for the planning of the development and use of rural and urban land, constitutes a comprehensive statutory code that mandates the preparation, publication and approval of Master Plans. Master Plans upon notification by the Government, acquire binding force. Such plans prescribe land-use classifications and when read with the Development Control Rules, govern all building activities. Chapter X-A of the 1920 Act was introduced in 1992 with the specific object of shifting the licensing power for construction in hill stations from the local authority to the State Government and for creating the AAA Committee. The primary concern of the said Chapter is the grant of licence under Sections 217- B to 217-D and the location restrictions in the Rules. Chapter X-A cannot be deemed as a comprehensive land-use planning code. [The Town and Country Planning Act, 1971](#), by contrast, is a more comprehensive statute that mandates the preparation, approval and grants statutory force of Master Plans. 33 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026

74.Once a Master Plan is notified by the Government, the land-use classifications and Development Control Rules become binding statutory instruments. Section 217-O cannot be read as empowering a Municipality or local body in the State to ignore a Government-approved Master Plan which classifies land as primary residential or wooded area and permits regulated construction. Consequently, once a Master Plan prepared under the 1971 Act has been approved and notified by the Government, the land-use designations and Development Control Regulations contained therein become statutory and the non-obstante clause in Section 217-O cannot be invoked to ignore or

nullify a notified Master Plan. There should be a harmonious reading of the special provisions of Chapter X-A with, and not in derogation of, the broader planning framework that the Legislature has deliberately established for the orderly development of the State, including its environmentally fragile hill stations.

75. Even where a non-obstante clause exists, courts are obliged to attempt a harmonious construction so that both statutes can operate in their respective spheres. The Master Plan and Development Control Rules govern the various uses which are permissible on a given parcel. Whereas Chapter X-A and the 1993 Rules govern how and under what environmental/aesthetic conditions a building licence may be granted for a permissible use. A Master Plan prepared and the Development Control Rules framed thereunder, constitute the primary 34 / 43

<https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 statutory instrument that determine the permissible uses to which any given parcels of land may be put, thereby prescribing the zoning classifications, density norms and land-use restrictions that govern the area. In contrast, Chapter X-A of the 1920 Act, introduced in 1992, and the Tamil Nadu District Municipalities (Hill Station) Building Rules, 1993, operate in distinct and complementary spheres, regulating the manner, environmental safeguards and aesthetic conditions subject to which a building licence may be granted for a use that is already permissible under the Master Plan. Consequently, the two regimes must be read harmoniously.

76. A certain land classified as permissible under the Master Plan does not automatically entitle the applicant to a building licence. The grant of such a licence remains contingent upon compliance with the location restrictions, environmental safeguards and aesthetic requirements prescribed by Chapter X-A and the 1993 Rules. Conversely, the special provisions of Chapter X-A cannot be invoked to prohibit or restrict a use that the Master Plan has expressly permitted, nor can the non-obstante clause in Section 217-O be construed so as to nullify or override the statutory force of a duly notified Master Plan. This harmonious construction preserves both the broader planning objectives of the 1971 Act and the specific protective purpose of Chapter X-A, ensuring that development in hill stations proceeds only in accordance with the land-use 35 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 framework established by the Master Plan and subject to the environmental and aesthetic controls mandated by the special hill-station legislation.

77. It is admitted by the Additional Advocate General that the 2nd respondent had evolved a Master Plan for the Ooty town. It had been placed for approval before the Government of Tamil Nadu. The Government of Tamil Nadu had also approved the said Master Plan and had notified the same. Under similar circumstances, it has been pointed out by the Supreme Court in [Harbinder Singh Sekhon Vs. State of Punjab](#), 2026 INSC 159 that a Master Plan prepared and notified under the planning enactment is not a policy document or an internal administrative guideline. Such a Master Plan is a binding statutory instrument that governs the use and development of land within the planning area. Such a Master Plan also allocates zones for different purposes and prescribes zoning regulations. Consequently, the Master plan acquires statutory force. The zoning and development regulations found therein bind all the authorities including the Forest Department. The significance of the Master Plan lies in its character as a primary and binding instrument of plan development. Further in Naveen Solanki and another Vs. Rail Land Development Authority and others, 2026 INSC 270, the Supreme Court declared Master Plan has to be prioritised over environmental classification.

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78. As rightly contended by Mr. Abudu Kumar Rajarathinam, in [Chairman, Indore Vikas Pradhikaran Vs. Pure Industrial Cock and Chem](#). Ltd., (2007) 8 SCC 705, the Supreme Court had pointed out that a Master Plan or detailed development for an area or a zone operates at the macro level, whereas a town planning scheme functions at the micro level. It is therefore, a town plan scheme subject to a development plan.

79. Applying the principles [laid down in](#) these two judgments to the present case, the Master Plan that has been notified for the Ooty town constitutes a macro level plan for the entire town and the 1993 Rules deal with the micro level that is developed for a particular site.

80. To put this into perspective, if an area is notified as a primary residential zone, the applicable provision under the 1993 Rules should be enforced and the construction of the residential building should be in accordance with the said rules.

81.Neither the special provisions of the Chapter-X-A of the 1920 Act nor the interpretation given to Rule 7(2) by the respondents can be utilised to nullify or re-write the zoning regulations under the master Plan. If this was to be permitted, then the Master Plan that is developed by the town planning 37 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 authorities and subsequently approved and notified by the Government after careful consideration of the specialised inputs given by the Directorate of Town and Country Planning and 21 other departments, including the Forest Department, would be left at the mercy of the town planner sitting in the office of the 4th respondent Municipality. The tail cannot wag the dog. Such an inversion of the statutory functions is not contemplated under the [Tamil Nadu Town and Country Planing Act, 1971](#) or the [District Municipalities Act, 1920](#).

82.In the present case, as a Master Plan permits the petitioner to put up a residential structure over the property purchased, which is the subject matter of the writ petition, the respondents cannot escape from their duty to consider the application by reading Rule 7(2) of the 1993 Rules which deals with assignment of land barring them from granting an approval to a building.

83.A perusal of the Master Plan shows that certain areas have been categorised as ‘Prohibited Zones’. In these zones, the Master Plan declares no construction is permissible. It also states that no relaxation of the Rules relating to such Prohibition is permissible, unless and until they are existing developments. If Rule 7(2) of the 1993 Rules is interpreted to mean that lands falling within 150 metres of the forest boundaries are “No Construction Zones” or Prohibited Zones, then it would amount to Court rewriting the Master Plan 38 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 and 1993 Rules. Such a course is not permissible. The plea of the Additional Advocates General that Rule 7(2) is to be interpreted to mean that it is a Prohibited Zone cannot be accepted, as the Government was aware that forest exists in Hill Stations and has not incorporated it in the Master Plan. It is therefore not open to this Court to expand the scope of Rule 7(2) of the 1993 Rules and the Master Plan notified under the [Tamil Nadu Town and Country Planning Act, 1971](#).

84.Furthermore, I would also refer to a recent judgment of the Supreme Court in [Yerikala Sunkalamma and another Vs. State of Andhra Pradesh and others](#) in Civil Appeal No.4311 of 2025 dated 24.03.2025. J.B.Pardiwala.J, speaking for the Bench had held that there is a clear distinction between an absolute owner of a property as against an allottee of a land through an order of assignment. Therefore, when the owner of the property produces a registered document, there is a presumption of title in his favour that he is entitled to utilise the land as long as it is in accordance with the rules. The same cannot be equated with respect to an assignee of land from the Government.

85.Furthermore, the right to property is a constitutional right under [Article 300A](#). The right to transfer the property is governed by the [Transfer of Property Act, 1882](#). A rule framed by the State of Tamil Nadu, and that too 39 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 under the District Municipalities Act, cannot be interpreted to override superior statutes. If the interpretation as placed by the Additional Advocates General is given to Rule 7(2), then a subordinate piece of legislation can completely prevent the alienation by way of sale, transfer or gift of a property, which is entirely private in character. Such an interpretation, in my view, cannot be ascribed to Rule 7(2) and is not in line with the declaration of law by the Supreme Court.

86.While the judgement in Yerikala Sunkalamma’s case maybe squarely applicable in matters governed by the [Andhra Pradesh Assigned Lands \(Prohibition of Transfers\) Act, 1977](#), the underlying legal distinction between a land patta holder (pattadar) and a land allottee still remains applicable in this case, where the petitioner holds a patta in his name as opposed to an “assignment”/ “allotment” by the Government.

87.On a comparative plane, I will refer to “assignment” defined under Rule 2(c) of the Kerala Assignment of Land Within Municipal and Corporation Areas Rules, 1995. It means the transfer of land by way of registry and includes a lease or grant of licence for use of land. These Rules apply to Government land situated within Municipal and Corporation limits in the State of Kerala and permit such assignment for house sites, shop sites, commercial or charitable 40 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 purposes, or for the beneficial enjoyment of adjoining registered holdings. This definition provided under the Kerala rules is wider than a pure common law assignment of contractual rights, as it specifically denotes the governmental act of transferring or permitting the use of State land through registry, lease or licence.

88.Insofar as the cause of action is concerned, I am not in agreement with Additional Advocate General that the petitioner will have to wait for rejection for the purpose of moving this Court. The petitioner filed an application in 2025 and the respondents have till date not proceeded further on the basis of their interpretation of Rule 7(2). This Court having come to the conclusion that on the basis of the judgment of The State of Telangana and others Vs. Dr.Pasupuleti Nirmala Hanumantha Rao Charitable Trust, cited supra, and Yerikala Sunkalamma's case, that "assignment" and "conveyance" are not one and the same, the petitioner is entitled to succeed.

89.In the result, this Writ Petition stands allowed. Consequently, there shall be a Mandamus directing the 4th respondent to consider the application of the petitioner for building approval in accordance with the 1993 Rules and grant sanction, if it complies with the provisions of the said Rules. The respondents shall not interpret Rule 7(2) as a bar for grant of such permission. As interesting 41 / 43 <https://www.mhc.tn.gov.in/judis> WP.No.1977 of 2026 questions of law have been agitated by Mr.Abudu Kumar Rajarathinam and Additional Advocate General, this Court is not inclined to impose costs on the respondents.

13.10.2026 krk Index: Yes/No Speaking/Non-speaking order Internet: Yes Neutral Citation: Yes/No To

1.The Secretary to Government, Department of Housing and Urban Development, Tamil Nadu Secretariat, Fort St. George, Chennai -600 009.

2.The Director, Department of Town and Country Planning, 2nd, 3rd and 4th Floor, C and E market Road, Koyambedu.

3.The District Collector, Nilgiris District, 171, Church Hill Rd, Near Charing Cross, Pudumund, Ooty-643001.

4.The Commissioner, Udhagamandalam Municipality, Hospital Rd, Upper Bazar, Ooty-643 001.

5.The District Forest Officer, Uthagamandalam.

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