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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.12.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)NO.21525 OF 2022
and
W.M.P(MD)No.15659 of 2022**

Chithambaram

:Petitioner

.VS.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.

3.The Block Development Officer/
Karungulam Block,
Srivaikundam Taluk,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings in A4/1535/2018, dated 28.06.2022 passed by the third respondent and to quash the same as arbitrary and illegal and consequently to direct the second respondent to grant assignment patta for the land in respect of the land in Survey No.157, situating in Vitillapuram



Village, Srivaikundam Taluk, Thoothukudi District within the time limit stipulated by this Court.

For Petitioner :Mr.M.S.Jeyakarthick

For Respondents :Mr.P.T.Thiraviyam
1 and 2 Govt.Advocate

For Respondent-3 :Mr.S.P.Maharajan

O R D E R

(Order of the Court was made by D.KRISHNAKUMAR,J)

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings in A4/1535/2018, dated 28.06.2022 passed by the third respondent and to quash the same as arbitrary and illegal and consequently to direct the second respondent to grant assignment patta for the land in respect of the land in Survey No.157, situating in Vitillapuram Village, Srivaikundam Taluk, Thoothukudi District within the time limit stipulated by this Court.

2.The Petitioner and his family members are residing at Vitilapuram Village. Since there was no dwelling place for the Petitioner and his family members, they have put up a small hut in the land in S.No.157 of the above said village and the Petitioner is



in possession of the said land for more than 40 years and thereafter, the Petitioner had constructed a small tiled house in the above said property. The Petitioner has also paid the house tax for the said panchayat. While so, the third respondent had issued a notice in A4/1535/2018, dated 28.6.2022 for removal of encroachment made by the Petitioner in the said property. Thereafter, the Petitioner had approached the respondents to consider his request for grant of assignment patta for the above said property. Since the same has not been considered by the authorities concerned, the Petitioner has filed this Writ Petition for the relief stated supra.

3. When the matter is taken up for hearing today, the learned Government Advocate appearing for the respondents 1 and 2 produced a communication of the Commissioner, Karungulam Panchayat Union, at Seidunganallur addressed to the Government Pleader, wherein, it is stated that the Petitioner has submitted a representation on 25.04.2022 seeking alternative site for the residence of the Petitioner and based on the same, his request was duly considered and an alternative site was provided as per the communication of the Tahsildar, Srivaikundam, dated 24.6.2022



with certain conditions.

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4. Therefore, in the light of the above fact that the Petitioner is residing in a water body, the Petitioner cannot have any legal right claiming right over the said property. The Division Bench of this Court in **L. Krishnan's case** and the recent decisions of various High Courts have held that the encroachments in the water bodies have strictly to be removed, in order to protect the water body from encroachments and for usage of the same for the future generation.

5. The respondents have considered the request of the Petitioner and has also provided an alternative site for construction of a house. Therefore, we are of the view that there is no merit in the Writ Petition and the Writ Petition is liable to be dismissed.

6. If the Petitioner wants to construct a house in the alternative site allotted by the authorities, it is for him to approach the authorities concerned seeking financial assistance, in the manner known to law, if so advised.



7. With the above observation, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

[D.K.K.,J.] [R.V.,J.]
09.12.2022

Index: Yes/No

Internet: Yes/No

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D.KRISHNAKUMAR, J.

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ORDER MADE IN

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