



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 23088 of 2022

And

W.M.P.No. 22097 of 2022

M/s. Sri Kusuma Haranath Thunai
Ex-Servicemen Association
Rep. by its President
Mr.T.Dhanapal
No.26, 2/1016, Keenedy Street,
Jambulingam Main Road
G.K.M.Colony
Chennai – 600 082.

... Petitioner

..Vs..

1. Union of India
Ministry of Defence
Represented by
The Defence Estate Officer
Office of Defence Estate
Chennai Circle, No.306, Anna Salai,
Teynampet, Chennai – 600 018.
2. The Tashildar
Ayanavaram Taluk
18/31, Palliaarasan Street
Kumaran Nagar, Kilpauk
Chennai – 600 010.



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3. The Chairman
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai – 600 005.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Na.Ka.No.A4/0918/2022 dated 24.02.2022 passed by the second respondent and quash the same and directing the respondents make necessary correction so as to adangal in respect of the low lyind land in the name of M/s. Sri Kusuma Haranath Thunai Ex-Servicemen Association and issue a sale deed to the 80 disclosed members of the petitioner association.

For Petitioner :: Mrs. R.Meenakshi

For 1st Respondent :: Mr.S.N.Parthasarathy
SCGSC

For 2nd Respondent :: Mr. T.Seenivasan
Special Government Pleader

For 3rd Respondent :: Mrs. G.Thilakavathi
Standing Counsel
for Mr.S.Karthikeyan

**ORDER**

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The Writ Petition has been filed in the nature of certiorarified Mandamus seeking records to be examined relating to an order of the second respondent dated 24.02.2022 in Na.Ka.No. A4/0918/2022 and consequently direct the respondents particularly the second respondent and the third respondent to carry out necessary corrections in the adangal with respect to the low lying land in the name of the petitioner Ex-servicemen Association and issue a sale deed to the 80 members of the petitioner Association.

2. The Writ Petition came up on 12.01.2023 and it was informed by the respondents that the petitioner had an affinity to be file writ petition after writ petition. That fact is denied by the learned counsel. But at any rate, to sensitise the petitioner that judicial process should not be taken for granted, this Court had observed that the petitioner should deposit a sum of Rs.10,000/- as costs.

3. Today, it is clarified by the learned counsel for the petitioner that



only to agitate the rights did the petitioner file the Writ Petition.

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4. The petitioner is deeply aggrieved by the impugned order of the second respondent / Tahsildar, Kilpauk, Chennai. It is also stated by the learned counsel that as against the impugned order of the Tahsildar, there is an appellate remedy available before the Revenue Divisional Officer and that the petitioner would take necessary recourse to file such appeal.

5. The learned Special Government Pleader who appears for the second respondent / was insistent that the Writ Petition itself is not maintainable and stated that however the petitioner can approach the Revenue Divisional Officer and seek necessary relief in accordance with law.

6. In the meanwhile, an application has also been filed in W.M.P.No. 346 of 2023 seeking to implead the Chairman, Tamil Nadu Slum Clearance Board, Chennai and the Commissioner, Greater Chennai Corporation.

7. However, in view of the fact that there is an appeal available to the petitioner against the impugned order of the Thasildar, let me not examine



the facts in detail since if the petitioner files an Appeal, it would impinge on the minds of the appellate authority.

8. I would only issue a direction to the petitioner herein to file an appeal before the Revenue Divisional Officer on or before 03.03.2023. If such an appeal is filed, then the said official may not put the issue of limitation against the petitioner herein but rather, if the papers are otherwise in order, take the appeal on record and proceed in manner known to law after following due procedure.

9. In view of the fact that the petitioner had come over to file the appeal and since filing of an appeal is a statutory right, the Writ Petition does not survive any longer. Hence, the Writ Petition stands dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is also dismissed.

10. I would also taken into account the fair stand taken by the learned counsel for the petitioner and withdraw the imposition of costs of



Rs.10,000/- as stated in the order dated 12.01.2023.

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11. The petitioner is at liberty to approach the Revenue Divisional Officer on or before 03.03.2023. The fact that the Writ Petition has been dismissed should not be put against the petitioner herein and all issues against the order of the Thasildar can be agitated afresh by the petitioner and a duty is cast on the Revenue Divisional Officer to answer each and every issue.

07.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

Note: Registry may return the original order dated 24.02.2022 of the second respondent/Thasildar, back to the learned counsel for the petitioner after furnishing true attested copy for the sake of records.

To

1. The Defence Estate Officer



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Office of Defence Estate
Union of India
Ministry of Defence
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C.V.KARTHIKEYAN, J.,

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