



W.P(MD)No.8843 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.8843 of 2023

A.Hussain

... Petitioner

Vs.

1.District Collector,
Kanyakumari District at
Nagercoil, Kanyakumari District.

2.The Revenue Divisional Officer,
Kanyakumari District at
Nagercoil, Kanyakumarii District.

3.The Sub-Collector,
Padmnabhapuram at
Thuckalai,
Kanyakumari District.

4.The Tahsildar,
Vilavancode Taluk,
at Kuzhithurai,
Kanyakumari District.

5.The Village Administrative Officer,
Kazhiyl Village Office,
Kadayal P.O.Kanyakumari District.

... Respondents



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PRAYER :-
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Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 4th respondent to dispose the petitioners application 13.12.2021 within a time frame fixed by this Honble Court

For Petitioner : M/s.Francis Xavier
Advocate.

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of mandamus seeking a direction to the fourth respondent / Tahsildar, Vilavancode at Kuzhithurai, Kanyakumari District, to dispose of the application dated 13.12.2021 within a time frame fixed by this Court.

2. The writ petitioner, has been enjoying lands measuring 2 acres and 91 cents at Survey Nos.798/7, 798/4, 797/10 in Kazhiyal village, Vilavancode Taluk, Kanyakumari District. He had put up a house that has Door No.2-88-A2. He had obtained electricity connection and was enjoying the said large extent of land 2 acres and 91 cents.



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3. There has been an earlier writ petition in W.P.No.16654 of 2004 and there is a reference to the order in the said writ petition dated 18.06.2004, in a communication issued by the third respondent, on 21.08.2006. In the said communication dated 21.08.2006, the third respondent / Tahsildar had very clearly stated that the petitioner is in occupation of the above mentioned land as an encroacher and that the lands are of substantial marketable value and therefore it cannot be assigned to the petitioner herein. It had also been stated that the petitioner is a person of means. It had also been stated that if the petitioner is willing to pay the market rate for the land, then he must appear before the third respondent on 07.09.2006 at 11.30 a.m. The next document enclosed, is after 15 years namely dated 13.12.2021 where the petitioner now seeks assignment of the aforementioned lands to the petitioner herein.

4. When the respondents had very categorically stated that the petitioner is an encroacher of the said land and that the lands are of considerable market value, even as per the year 2006 and the petitioner had not responded to the offer made to pay the market value, then there is no obligation on the part of the respondent to consider the application given by the petitioner herein. The petitioner has not expressed willingness to pay the market rate, for the lands.



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There are no records to show that he has appeared before the Tahsildar, tendering the market rate as of the year 2006. He has however, continue to occupy the lands from the year 2006 till this year, eventhough in the year 2006, it had been stated that the petitioner had “ ஆக்கிரமிப்பு செய்து” enjoying the lands. It is thus seen that the petitioner's claim cannot be considered by this Court and mandamus be issued in the representation of such nature, particularly when the bonafide of the petitioner itself is suspect.

5. This Writ Petition stands dismissed. No costs.

20.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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C.V.KARTHIKEYAN, J.

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