



W.P.(MD) No.2516 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2024

CORAM:

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

**W.P.(MD) No.2516 of 2024
and W.M.P.(MD) No.2509 of 2024**

S.Stephen

... Petitioner

-VS-

The Executive Officer,
Selection Grade Town Panchayat,
Karungal,
Kanyakumari District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to the impugned order in Form – I, II and III dated 23.01.2024, issued by the respondent Panchayat and quash the same.

For Petitioner : Mr.T.Antony Arulraj

For Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader



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W.P.(MD) No.2516 of 2024

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The Writ Petition has been filed challenging the impugned order in Form – I, II and III dated 23.01.2024, issued by the respondent Panchayat.

2. By consent of both sides, the Writ Petition is taken up for final disposal at the time of admission itself.

3. According to the petitioner, his father purchased the property in S.No.607/15, measuring an extent of 1.852 cents, Midalam Village, Karunkal, from one Selvi and constructed a dwelling house, after obtaining building plan approval from the respondent Town Panchayat. Further, according to the petitioner, he is paying property tax without any default. But, suddenly, the respondent served the impugned order in person, calling upon him to vacate from the respondent panchayat property. Hence, the Writ Petition.

4. According to the learned counsel for the petitioner, the notice issued by the respondent is *per se* illegal on the simple ground that the aforesaid notice issued under Form II and III of the Tamil Nadu Protection of Tanks and



W.P.(MD) No.2516 of 2024

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Eviction of Encroachment Act, 2007, will not apply to the present case since the property in question has not been classified as a tank. Hence, he prays for quashing the impugned notice.

5. Learned Additional Government Pleader appearing for the respondent fairly submitted that the property in question has been classified as road. Hence, the respondent has to invoke the provisions of the other Act for removal of the encroachment.

6. In view of the above submissions, this Writ Petition is allowed and the impugned order in Form – I, II and III dated 23.01.2024, issued by the respondent Panchayat, is quashed. However, the respondent is at liberty to invoke the provisions of the Tamil Nadu Urban Local Bodies Act, 1998, for removing the encroachments, if any. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
06.02.2024

Index : Yes / No
Internet : Yes / No
SJ



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W.P.(MD) No.2516 of 2024

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

SJ

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W.P.(MD) No.2516 of 2024

06.02.2024

Page 4 of 4