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W.P.(MD) No.2562 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

CORAM:

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

**W.P.(MD) No.2562 of 2024
and
W.M.P.(MD) No.2573 of 2024**

N.Arul Stalin

... Petitioner

-vs-

- 1.The District Collector
Office of the District Collectorate
Nagercoil
Kanniyakumari District
- 2.The Tahsildar
Killiyoor Taluk
Kanniyakumari District
- 3.The Executive Officer
Karungal Selection Grade Town Panchayat
Karungal
Kanniyakumari District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned notices issued by the third respondent Executive Officer in Form-I, Form-II, Form-III, dated 23.01.2024, quash the same.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

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

The writ petition has been filed challenging the impugned notice in Form – I, II and III dated 23.01.2024, issued by the respondent - Panchayat.

2. According to the petitioner, his mother has gifted the subject property to him on 12.11.2020 and since then, he is in possession of the subject property by running a textile shop therein and he is paying property tax without any default. But, suddenly, the third respondent served the impugned notice calling upon the petitioner to vacate from the panchayat property. Hence, the writ petition.



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3. According to the learned counsel for the petitioner, the notice issued by the third 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 Eviction of Encroachment Act, 2007, will not apply to the present case, since the property in question has not been classified as a tank.

4. Further, learned counsel for the petitioner submitted that in similar circumstances, this Court by order dated 06.02.2024 in W.P.(MD) No. 2516 of 2024, allowed the writ petition and quashed the impugned notice. Hence, he prays for quashing the impugned notice.

5. Learned Government Advocate appearing for the respondents fairly submitted that the property in question has been classified as road. Hence, the third 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 notice in Form – I, II and III dated 23.01.2024, issued by



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the third respondent Panchayat, is quashed. However, the third respondent is at liberty to invoke the provisions of the Tamil Nadu Urban Local Bodies Act, 1998 or relevant Act, for removing the encroachments, if any. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

13.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Collector,
Office of the District Collectorate,
Nagercoil, Kanniyakumari District.
- 2.The Tahsildar,
Killiyoor Taluk,
Kanniyakumari District.
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