



W.P.(MD) No.7813 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
19.01.2023	28.02.2023

CORAM:

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

W.P.(MD) No.7813 of 2020
and
W.M.P.(MD) No.8781 of 2022

R.Chandran

... Petitioner

-vs-

- 1.The District Collector
Virudhunagar District
Virudhunagar
- 2.The Revenue Divisional Officer
Aruppukottai Revenue Division
Aruppukottai
Virudhunagar District
- 3.The Thasildar
Aruppukottai Taluk
Virudhunagar District
Virudhunagar



W.P.(MD) No.7813 of 2020

4.The Proprietor

Akil Green Energy Private Limited
Kovilankulam and Post
Aruppukottai
Virudhunagar-626 107

5.The President

Ramanujapuram Panchayat
Kovilankulam Post
Aruppukottai Taluk
Virudhunagar-626 107

... Respondents

[R5 is impleaded *vide* order dated
19.01.2023 passed in W.M.P.(MD) No.
22809 of 2022]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to prevent the fourth respondent, his agents and his workers from any way installing electric poles across the Uppu Odai (stream) and on its canal and subsequently to remove the already installed electric poles, which is situated at Ramanujapuram Village, Kovilankulam, Aruppukottai Taluk, Virudhunagar District and by considering the petitioner's representation dated 30.05.2020.

For Petitioner : Mr.A.Jeyaram

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1 to R3
Mr.R.Murali
for Mr.G.Thiruvartselvan for R4



W.P.(MD) No.7813 of 2020

WEB COPY

ORDER

D.KRISHNAKUMAR, J.

Prayer in this writ petition is for issuance of a writ of mandamus directing the respondents 1 to 3 to prevent the fourth respondent, his agents and workers from in any way installing electric poles across Uppu Odai (Stream) and on its Canals, situated in Ramanujapuram Village, Kovilankulam Post, Aruppukottai Taluk, Virudhunagar District, and to remove the electric poles erected in the Odai, by considering the petitioner's representation dated 30.05.2020.

2. According to the petitioner, the residents of Ramanujapuram Village depend only the agricultural income for their livelihood. More than 100 acres of agricultural lands in the said Village are being cultivated by depending upon Uppu Odai, which is maintained by the respondents 1 to 3. The said Uppu Odai also caters drinking water to the residents of the locality.

3. Further, according to the petitioner, the fourth respondent owns lands in the said Village in Survey Nos.144/1B, 144/2B, 144/2A, 145/4, 144/1A, 147/2A, 95/1A, 95/1B, 95/2A, 95/2B, 96/2, 96/1B1B3, wherein, they have installed solar energy penal and have been selling



W.P.(MD) No.7813 of 2020

WEB CUM

electricity generated from the unit to the Tamil Nadu Electricity and Generation Board. Hence, in order to transmitting the generated electricity from Kovilankulam to Palayampatti Sub-Station, the fourth respondent has installed electric poles across the Uppu Odai and its canals, without getting proper permission or approval from the Government. In view of erection of electric poles, according to the petitioner, the Odai got damaged and free flow of water to its canals got blocked. Therefore, the petitioner made a representation, dated 30.05.2020, to the first respondent seeking removal of the electric poles installed by the fourth respondent, without getting proper permission. Though the second respondent directed the third respondent to conduct enquiry and submit a report based on the petitioner's representation dated 30.05.2020 forwarded by the first respondent, till date, the third respondent has not taken any action. Hence, the present writ petition.

4. On 09.12.2022, when the writ petition came up for hearing, in view of the submissions made by the learned counsel on either side, this Court has passed the following order:

“The fourth respondent has erected the electric posts across the Uppu Odai(Stream) and on its canal and this Writ Petition has been filed to remove the already installed electric poles in the said Odai situated at



W.P.(MD) No.7813 of 2020

WEB COPY

Ramanujapuram Village, Kovilankulam, Aurppukkottai Taluk, Virudhungan District.

2.At the time of hearing the Writ Petition, it is represented by the learned counsel for the fourth respondent submitted that the fourth respondent had already erected the electric pole in the aforesaid Odai. It is further submitted that the pole erected by the fourth respondent had not caused any damage or hindrance to the free flow of water and the same will be maintained by the fourth respondent without any hindrance to the Odai.

3.The learned counsel appearing for the Petitioner also not insisting upon the prayer sought for in the Writ Petition but in the larger interest, the Petitioner had made a claim before this Court that the fourth respondent has to maintain the said Odai in the interest of the villagers and the public at large.

4.In response to the same, the learned counsel for the fourth respondent undertakes that they would have bear the cost for the renovation of the said Odai and that they will undertake to renovate the said Odai at their own cost, after getting permission from the authority concerned.

5.The learned Government Pleader appearing for the respondents 1 and 3 would submit that they have agreed for the aforesaid proposal made by both the parties.



WEB COPY

W.P.(MD) No.7813 of 2020

6. In view of the above, the parties concerned are directed to file affidavits for accepting the said proposal submitted by the fourth respondent as well as the authority concerned.

7. Post this matter on 16.12.2022 for filing such affidavits by the above said parties.”

5. In response to the above directions, the fourth respondent / Ahil Green Energie Private Limited has filed an affidavit dated 14.12.2022 and the fifth respondent / President, Ramanujapuram Panchayat, has filed a status report, dated 16.12.2022.

6. The fifth respondent / President, Ramanujapuram Panchayat, in her status report dated 16.12.2022, has stated that based on the petitioner's representation, they have conducted an inspection in the subject Odai and it is found that totally 30 electric poles have been erected on the banks of the Odai, of which, three electric poles have been erected in the channel and the fourth respondent is also having a building measuring 37.15 sq. meter. The details of property tax levied on the fourth respondent and due from them are extracted hereunder:



W.P.(MD) No.7813 of 2020

WEB COPY

- (i) *A total tax of Rs.7,150/- for Building Layout Permission calculated at the rate of Rs.25 per Sq M ({3years x 38 x 25} =Rs.2,850 – tax fee + Rs.4,000 – labour welfare fee)*
- (ii) *A total property Tax of Rs.680/- calculated at the rate of Rs.400/- (0.1% of valuation 4,00,000/-) + Rs.40/-(Library Tax) + Rs.200/- Surcharge.*
- (iii) *A total Business Tax of Rs.40,000/- calculated at the rate of Rs.1,250 per Acre (32 acres x 1,250 = 40,000/-)”*

7. The fifth respondent, in her status report, has further stated that as alleged by the petitioner, the electric poles erected by the fourth respondent are no way blocking free flow of water in the channel in Survey No. 155 and the DP Switch Pole, which has been wrongly construed as Transformer and placed in the subject Odai, has been removed completely. Therefore, based on the field inspection and the revenue records, the Panchayat President has clarified that as on date, there is no electric pole inside the subject Odai.

8. The fourth respondent / Ahil Green Energie Private Limited has filed an affidavit, dated 14.12.2022, stating that they have entered into a Power Purchase Energy Wheeling Agreement (EWA) with TANGEDCO to sell the electricity generated from their solar power project on a long term basis



W.P.(MD) No.7813 of 2020

from the date of commissioning of the project. Subsequently, they got necessary approval from the competent authorities, such, as TANGEDCO, Revenue and NHAI and constructed a 6MW solar plant in their properties at Kovilangulam Village, Aruppukottai Taluk, Virudhunagar District and now, they transmit the generated power from the solar plant to the nearby Electricity Sub-Station viz., Palayampatti Electricity Substation, as per the approved route by following necessary safety measures.

9. It is further stated that on 27.06.2020, the third respondent – Thasildar has given a No Objection Certificate for the solar energy plant and now, the plant is functioning and generating electricity with the approval of TANGEDCO. They have not made any encroachment or caused any damage in the water body. Further, they have stated that they are ready to maintain the subject Odai as per the directions issued by this Court in the interest of public and agriculturists.

10. Heard the learned counsel on either side and perused the materials available on record.



W.P.(MD) No.7813 of 2020

WEB COPY

11. Though the petitioner has filed this writ petition seeking directions to the official respondents alleging that the private respondent has erected electric poles in the Uppu Odai and made obstruction to the free flow of water, subsequently, in view of the submissions made on behalf of the fourth respondent that the electric poles erected by the fourth respondent had not caused any damage to the Odai or hindrance to the free flow of water and the fourth respondent is ready to maintain the Odai, the petitioner has not insisted upon his relief sought for in this writ petition. However, at the same time, the petitioner, in the interest of the public at large, claimed that the Uppu Odai may be maintained by the fourth respondent properly, for which, the respondents have also not raised any objection and the fourth respondent has also given their consent to maintain the Uppu Odai.

12. We have carefully perused the status report, dated 16.12.2022, filed by the fifth respondent as well as the affidavit filed by the fourth respondent dated 14.12.2022.

13. On perusal of the affidavit filed by the fourth respondent dated 14.12.2022, we are of the view that the contentions of the fourth



W.P.(MD) No.7813 of 2020

respondent appear to be rational and therefore, based on their undertaking, we are inclined to dispose of this writ petition on the following terms:

- (i) The fourth respondent shall maintain the Uppu Odai, as per their undertaking given their affidavit dated 14.12.2022.
- (ii) The fourth respondent shall bear the annual maintenance cost based on the estimate and proposal submitted by the fifth respondent – Panchayat.
- (iii) The fourth respondent shall ensure that the free flow of water between the Uppu Odai and its canal is not blocked or obstructed and water is conserved and preserved in the Odai properly.
- (iv) For storage of water, if necessary, the fourth respondent shall construct check dams in appropriate places, based on the proposal submitted by the fifth respondent.
- (v) The above exercise shall be carried out by the fourth respondent, without any undue delay.



W.P.(MD) No.7813 of 2020

WEB COPY

14. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

28.02.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

krk

To:

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Aruppukottai Revenue Division,
Aruppukottai,
Virudhunagar District.
- 3.The Thasildar,
Aruppukottai Taluk,
Virudhunagar District,
Virudhunagar.



WEB COPY



W.P.(MD) No.7813 of 2020

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

krk

ORDER
IN
W.P.(MD) No.7813 of 2020
and
W.M.P.(MD) No.8781 of 2022

28.02.2023