

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.23529 of 2015

and

M.P.No.1 of 2015

Craigmore Plantations (India) Pvt. Ltd.,
Kullakamby PO,
The Nilgiris - 643 218,
Tamil Nadu.

... Petitioner

vs.

1. The District Collector,
The Nilgiris District,
Udhagamandalam.
2. The Revenue Divisional Officer,
Coonoor,
Nilgiris District,
Udhagamandalam.
3. The Tahsildar,
Coonoor Taluk,
Coonoor, The Nilgiris District.
4. Tmt.Shivakumari
Tahsildhar,
Coonoor Taluk,
Nilgiris District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, forbearing the respondents 1 to 3 or their men from interfering with water supply to the petitioner's property comprising of Residential colonies, hospitals, schools, day care centers, canteens etc. and consequently direct the respondents 1 to 3 to continue to allow the petitioner from using the water channel.

For Petitioner : Mr.Vijayanarayanan,
Senior Counsel
for M/s.R.Parthiban

For Respondents : M/s.P.Rajalakshmi,
Government Advocate

ORDER

This Writ Petition has been filed seeking for the issuance of writ of mandamus, to forbear the Respondents 1 to 3 or their men from interfering with water supply to the petitioner's property comprising of Residential colonies, hospitals, schools, day care centers, canteens etc. and consequently, to direct the Respondents 1 to 3 to continue to allow the Petitioner from using the water channel.

2. The Petitioner herein is a Plantation Company. There is a Odai which runs through the petitioner's land. A show cause notice dated 16.06.2015 was given to the petitioner to show cause as to why an action shall not be taken for unauthorizedly using the water from Odai by diverting it for personal use. The Petitioner gave its reply to the show cause notice dated 16.06.2015, on 22.06.2015. The Petitioner was asked to appear for enquiry on 13.07.2015 by the Second Respondent/Revenue Divisional Officer, Coonoor, Nilgiris District. The Petitioner appeared before the Second Respondent and gave its explanation. On 29.07.2015, the alleged diversion of water was stopped by the Officials of the Respondent. However, the water was supplied through tankers. But, the same was rejected by the Labourers of the Petitioner, who in turn removed the obstruction made by the Officials of the respondent. Subsequently, a complaint was given and the same has been registered in FIR No.72/2015 on 31.07.2015. The petitioner on 05.08.2015 made a request seeking permission to take water from Odai, which is under consideration. These are the background facts governing the case.

3. The learned Senior Counsel appearing for the Petitioner submitted that element of fairness is lacking in the case on hand. The proposed action followed by unilateral decision is an off-shoot of the earlier round of litigation. As the petitioner has not acceded to the request made, to permit the general public to use the private road, at the instance of Respondents 2 and 3, barricades have been put up obstructing the private road of the petitioner. Thus, the petitioner was constrained to approach this Court and orders have been obtained, based on which the barricades have been removed. Therefore, the present proceedings have been initiated as a counter blast.

4. The learned senior Counsel also submitted that permission has been obtained from the Forest Department for the usage of water and payment is being made to the Forest Department. The learned Senior Counsel also made reliance on the receipts for the above purpose. It is further submitted that rent is being paid for the usage of Government land. A submission is made on the fact stating that the petitioner never used the water for any other purpose other than for domestic purpose and that there is no intention to use it for agricultural purpose.

5. The learned Government Advocate, based on instructions, submitted that it is a case of diversion of water and that the petitioner cannot use the same for agricultural purpose or for industrial purpose. Unilaterally, the employees of the petitioner along with others removed the barricades made by the Officials of the Respondent. The request of the petitioner for using the water for domestic purpose is under consideration. It is further submitted that the earlier action was taken in view of the statement made by the petitioner. But, no permission has been obtained from the Revenue Officials. Therefore, no order is required.

6. One thing is apparent and clear. The employees of the Petitioner were using the water for domestic purpose for quite some time. The petitioner has given the reply to the show cause notice. The show cause notice is given for the purpose of coming to a conclusion as to whether the water is being diverted or not and if so, whether it has been authorised or not. Thus, this Court, prima facie, is of the view that the Respondent ought not to have blocked the water before passing a final order. More so, when the petitioner has stated that the water is not used other than for domestic purpose. The present position appears to be that the employees, running to few hundreds, of the petitioner are using the water for domestic purpose. As submitted earlier, permission for using the water for domestic purpose is under consideration of the second respondent.

7. Accordingly, without going into the merits of the case, the second respondent is directed to pass appropriate orders both on the show cause notice as well as on the request of the petitioner for the usage of water, within a period of eight weeks from the date of receipt of a copy of this order, not withstanding the observations made by this Court, on merits. Till such time, the employees of the Petitioner are permitted to use the water for domestic purpose, as they are doing it till now.

8. However, it is made clear that the petitioner shall not use the water for any other purpose other than domestic purpose and in the event of violation, it is open to the respondents to take appropriate action in accordance with law.

9. Accordingly, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ogy

To

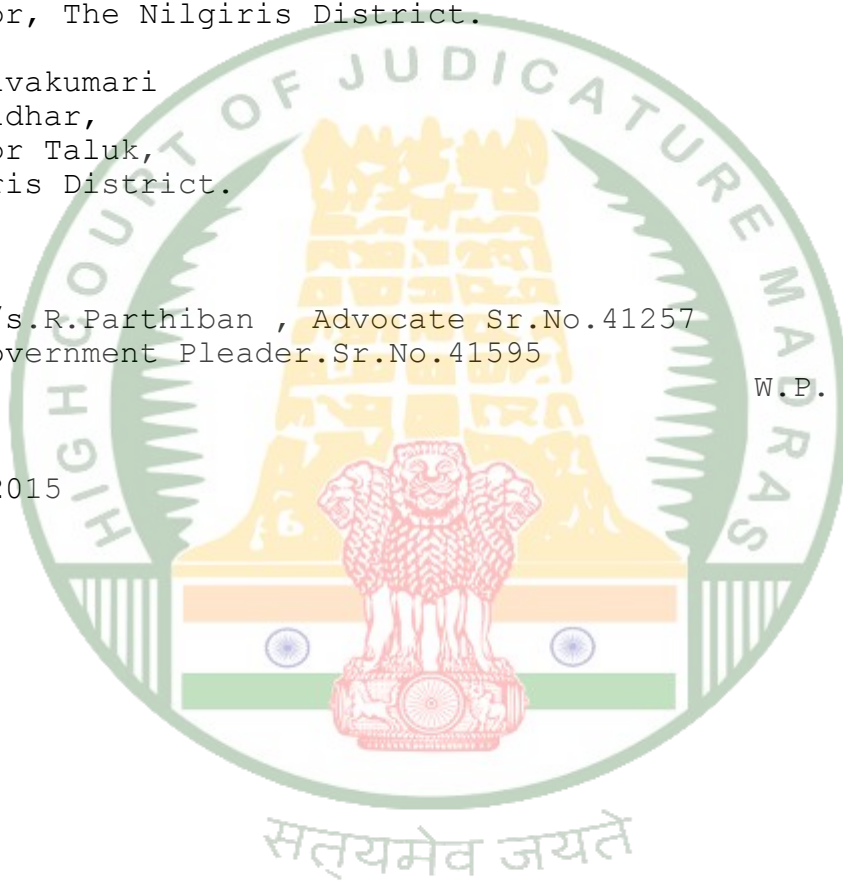
1. The District Collector,
The Nilgiris District,
Udhagamandalam.
2. The Revenue Divisional Officer,
Coonoor,
Nilgiris District,
Udhagamandalam.
3. The Tahsildar,
Coonoor Taluk,
Coonoor, The Nilgiris District.
4. Tmt.Shivakumari
Tahsildhar,
Coonoor Taluk,
Nilgiris District.

Copy to:

- 1 cc to M/s.R.Parthiban , Advocate Sr.No.41257
- 1 cc to Government Pleader.Sr.No.41595

W.P. No.23529 of 2015

ctk(co)
pmk.20.8.2015



WEB COPY