

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.06.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.21676 of 2016
and W.M.P.No.18522 of 2016

M.Tamilselvan

.. Petitioner

-vs-

- 1.State of Tamil Nadu,
Rep. By its Secretary to Govt.,
Dept. of Revenue, Fort St. George,
Chennai 600 009.
- 2.State of Tamil Nadu,
Rep. By its Secretary to Govt.,
Dept. of Public Works,
Fort St. George, Chennai 600 009.
- 3.The District Collector of Vellore,
Collectorate, Sathuvacheri,
Vellore.
- 4.The Assistant Director of Panchayats,
General, Vellore-9.
- 5.The Thasildhar of Katpadi Taluk,
Taluk Office, Katpadi,
Vellore District.
- 6.The Block Development Officer,
Kalputhur Village, Katpadi,
Vellore District.
- 7.The Village Administrative Officer,
No.72, Eranthangal Village and Post,
Katpadi Taluk, Vellore District.
- 8.The President of Eranthangal Village,
Eranthangal Village and Post,
Katpadi Taluk, Vellore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records related to the order dated 08.06.2016 passed by the 4th respondent in Na.Ka.A2/3612/2015, and quash the same as illegal and unsustainable and further direct the 3rd respondent to consider the petitioner's objection dated 12.05.2016 and pass a speaking order by giving notice to petitioner and by hearing petitioner and petitioner's village people's objection for construction of water tank in S.No.191, i.e. in pond bund, in Eranthangal Village, Katpadi Taluk, Vellore District.

For Petitioner : Mr.A.Gouthaman
For Respondents : Mr.S.T.S.Murthi,
Govt. Pleader, asst., by
Mr.V.Shanmugasundaram,
Govt.Advocate
For RR 1 to 7.

* * * * *

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner earlier filed Writ Petition No.4585 of 2016 seeking a writ of mandamus to the District Collector, Vellore, to consider the representation of the petitioner dated 21.12.2015 stated to be on behalf of the village people of Eranthangal village, Katpadi Taluk, Vellore District and for a direction to the Block Development Officer to construct the water tank in some other place belonging to the Government in the village except in the pond bund in S.No.191. The writ petition was disposed of by the Division Bench by an order dated 08.02.2016. This Court opined that this was a matter of administrative discretion as to where the water tank should be located so long as it does not affect the water area being a pond. However, towards the aforesaid object, the representation was directed to be disposed of by the Block Development Officer within a period of fifteen (15) days from the date of receipt of the order, after notice to all concerned, by a speaking order.

2.The petitioner has now once again approached the Court by the present writ petition filed as a public interest litigation seeking to assail the order passed by the Assistant Director of Panchayat, dated 08.06.2016 and to consider the objection filed by the petitioner now on 12.05.2016 to the District Collector.

3.We have heard the learned counsel for the petitioner and perused the records.

4.Learned counsel for the petitioner has drawn our attention to the proceeding of 09.11.2015 before the District Collector to contend that the conditions therein itself provided that the officer who executes the work should ascertain before starting of the work as to whether there was sufficient place for commencement of the work or whether problem was involved in that place. In this behalf, it may be noticed that this is prior to the directions of the Court and in any case, it is no one's case that the authorities themselves have not applied their mind to the issue albeit not agreeing with the petitioner. The proceedings before the Assistant Director, Panchayat / 4th respondent of 08.06.2016 assailed before us refers to the subject matter, as also the direction passed by this Court earlier. It records that the pictures annexed thereto make it clear that the pond has not been affected by the construction of the water tank - a fact which is quite apparent to us also from the photographs. No doubt, the tank is being constructed on the pond bund and what the petitioner now claims is that if it collapsed, it would affect the land area. On our query whether the petitioner has a technical expertise or qualification to opine on the location of the water tank, the answer is in the negative.

5.We are of the view that such a subject matter has to be left to the authorities concerned. That the water tank is required is not in question. The issue is where the water tank should be located. The water tank is not located in the pond. It is located on the bund. As to whether, the bund can withstand the construction or not is a matter of technical expertise, which has to be considered by the concerned authorities and not by the petitioner or the persons having the same view.

6.We do not see any reason to exercise jurisdiction in the matter in view of the aforesaid reasons.

7.Writ petition stands dismissed. No costs. Consequently, W.M.P.No.18522 of 2016 also stands dismissed.
sra

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Govt. of Tamil Nadu,
Dept. of Revenue, Fort St. George,
Chennai 600 009.
 - 2.The Secretary to Govt. of Tamil Nadu,
Dept. of Public Works,
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 - 3.The District Collector of Vellore,
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 - 7.The Village Administrative Officer,
No.72, Eranthangal Village and Post,
Katpadi Taluk, Vellore District.
- + 1 cc to Mr.A.Gouthaman, Advocate Sr 35279
- + 1 cc to The Govt.Pleader, Sr 35375
- KR/6/7/16

W.P.No.21676 of 2016

सत्यमेव जयते

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