

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.22707 of 2016
& W.M.P.No.19401 of 2016

S.Subramanian

... Petitioner

Vs.

1. The Superintending Engineer,
Public Works Department,
Special Project Circle, Palani.
 2. The Executive Engineer,
Public Works Department,
Amaravathy Basin Division,
Dharapuram, Thiruppur.
 3. The Assistant Executive Engineer,
Amaravathy Basin Sub Division,
No.3, Public Works Department,
Amaravathy Nagar, Tiruppur District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents herein, their men, servants, agents or anyone claiming under them from in any manner interfering with the use or breaking of the pipelines constructed over the Kadathur Channel between mil 4.0.000 to 4.0.100 from the well situated in SF.No.436/7 to SF Nos.744, 745 and 746 of Kadathur Village.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
Asst. by Mrs.AL.Ganthimathi

For Respondents : Mr.P.Sanjai Gandhi
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that the lands in SF Nos. 744, 745 and 746 at Kadathur Village belong to his

father [late] Sundarasamy Gounder and after his demise, he had succeeded to the estate and is carrying on his agricultural activities in the said lands for the past 30 years and it is the only source for food and crops in the said village. It is further stated that for the purpose of drawing water to the agricultural lands situated in the above said survey numbers from a well situated in SF.No.436/7, the petitioner's father in the year 1989, sought for permission from the respondents for laying pipelines passing over the Kadathur Channel and the 2nd respondent, vide proceedings in No.TS/JDO/F.105A/93/M/89 dated 02.02.1989, had granted permission to his father for constructing the pipelines crossing over Kadathu Village between 4.0.000 to 4.0.100 for taking water from the well in SF.No.436/7 to the lands in S.Nos.744, 745 and 746 of Kadathur Village and the said permission is granted subject to conditions. The petitioner's father also paid the track rent every year and subsequently, the petitioner is also paying the track rent for the period from 1990 to 2016 on 18.02.2016. According to the petitioner, the conditions stipulated in the proceedings of the 2nd respondent dated 02.02.1989 are scrupulously and strictly complied with. The apprehension expressed by the petitioner is that, all of a sudden, without notice whatsoever, the respondents are compelling the petitioner to remove the pipelines and in the event of not being done, they threatened to remove the pipelines and therefore, the petitioner came forward to file this writ petition.

3. Heard the submissions of Mr.Ar.L.Sundaresan, learned Senior Counsel appearing for the petitioner assisted by Mrs.A.L.Gandhimathi, who would submit that since the petitioner had paid whatever dues for putting up the pipelines and that his agricultural activities are solely depending upon the drawal of water through the pipelines, protection may be afforded to the petitioner as the action of the respondents are in violation of Articles 14 and 21 of the Constitution of India and per se in violation of principles of natural justice.

4. This Court heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader who accepts notice on behalf of the respondents.

5. Though the petitioner has prayed for larger relief, this Court in the facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent, on receipt of the same, is directed to consider the said application submitted by the petitioner on merits and in accordance with law, after providing an opportunity of

personal hearing to the petitioner and pass orders within a further period of three weeks thereafter and communicate the decision taken to the petitioner and till then, the respondents shall not disturb the petitioner with regard to the drawal of water from the well situated in SF.No.436/7, to the lands in Survey Nos.744, 745 and 746 of Kadathur Village.

6. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Superintending Engineer,
Public Works Department,
Special Project Circle, Palani.
2. The Executive Engineer,
Public Works Department,
Amaravathy Basin Division,
Dharapuram, Thiruppur.
3. The Assistant Executive Engineer,
Amaravathy Basin Sub Division,
No.3, Public Works Department,
Amaravathy Nagar, Tiruppur District.

+1cc to Mrs.AL.Ganthimathi, Advocate, S.R.No.37010
+1cc to the Government Pleader, S.R.No.37429

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