

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.22709 of 2016

and W.M.P.No.19403 of 2016

M.Palanisamy

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 Raja Channel between mil 4.0.000 to 4.0.100 from the well situated in SF.No.135 and 136 of Muthunaickenpatti Village, Palani to SF Nos.736, 722, 723 and 724 of Kadathur Raja 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 claims that he is the absolute owner of the lands in SF.Nos.736, 722, 723 and 724, Kadathur village and he is carrying on agricultural activities in the said lands for the past 30 years. According to him, he is having a well in SF.Nos.135 and 136 at Muthunaickenpatti village and in order to draw water from the well to the above said lands, he has laid a pipeline in the year 1989 across the Kadathur Channel. It is further stated that the 2nd respondent had granted oral permission to lay the pipeline across the Kadathur village and it is the only source of water to carry on agricultural activities in respect of the lands in S.Nos.736, 722, 723 and 724 at Kadathur village. The grievance expressed by the petitioner is that all of a sudden, the respondents 2 and 3 are threatening to remove the pipeline and in that event, the entire agricultural activities of the petitioner would come to halt and therefore, the petitioner came forward to file the present writ petition.

3 Heard the submissions of Mr.Ar.L.Sundaresan, learned Senior Counsel appearing for the petitioner assisted by Mrs.A.L.Gandhimathi, would submit that in pursuant to the oral permission granted in the year 1989, the petitioner is drawing water through the pipeline and if it is removed all of a sudden, without notice, the petitioner will be put to grave prejudice and hardship and would further add that only very few persons are carrying on agricultural activities and in the event of removal of pipeline, the sole source of the livelihood of the petitioner will be ruined forever and prays for appropriate orders.

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

To

- 1.The Superintending Engineer,
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- 2.The Executive Engineer,
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- 3.The Assistant Executive Engineer,
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