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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.22028 of 2016

AND

WMP (MD) NO.15732 OF 2016

K.Senthilvel

... Petitioner

-vs-

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Karaikudi Taluk,
Karaikudi, Sivagangai District.

4.The Executive Officer,
Puduvayal Town Panchayat,
Puduvayal,
Karaikudi, Sivagangai District.

5.The Superintendent of Police,
Sivagangai District, Sivagangai.

6.The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 4 to 6 to restore the blocked water discharging outlet of the petitioners mill situated No.13-7-5B, Kamundi Pottal Street, Puduvayal, Karaikudi, Sivagangai District.

For Petitioner

: Mr.R.Subramanian

For RR - 1 to 3, 5 & 6

: Mr.M.Murugan
Government Advocate

For R - 4

: Mr.R.Rajarajan
Government Advocate

**ORDER**

This writ of mandamus has been filed, seeking a direction to the respondents 4 to 6 to restore the pipe line/way for blocked water discharging from the petitioner's mill, situated in No.13-7-5B, Kamudi Pottal Street, Puduvayal, Karaikudi, Sivagangai District.

2. Heard the learned counsel appearing for the petitioner; the learned Government Advocate for the respondents 1 to 3, 5 and 6 and the learned Government Advocate for the fourth respondent.

3. The case of the petitioner is that the respondents are preventing and blocking the water which is being discharged from the rice mill of the petitioner. Seeking a direction to the respondents 4 to 6 to restore the way for blocked water discharging from the petitioner's mill, this writ petition has been filed.

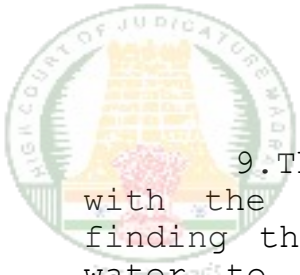
4. The Executive Officer of Puthuvayal Panchayat has passed an order dated 19.11.2016, blocking the discharged water from the rice mill of the petitioner to the canal. This is the communication, that has been furnished to the Advocate Commissioner who was appointed by this Court to find out whether there is a treatment plant available in the rice mill of the petitioner and whether the water, that is discharged from the rice mill would have the impact of polluting the water in the canal.

5. The Advocate Commissioner has produced the photograph showing the existing condition of the canal, from which one can easily infer that there is no further possibility of polluting the canal by putting any more waste articles in the canal. That is the appearance of the canal as it stands today.

6. The learned counsel for the petitioner produced the proceedings of the District Environmental Engineer, Tamil Nadu Pollution Control Board, Sivagangai dated 09.09.2016, under which, the occupier, i.e., the petitioner has been prevented to make discharge of emission from the stacks/chimneys.

7. Placing reliance upon this proceedings, it is contended by the learned counsel for the petitioner that the water from the rice mill is always treated with the treatment plant and the discharged water has no effect of polluting the water either in the canal or in any other place.

8. Only to find out the authenticity of the statement made by the learned counsel for the petitioner, the Advocate Commissioner was appointed with a direction to visit the aforesaid place where rice mill is situated and to find out whether there is a treatment plant available and the nature and quality of treated water and to submit a report.



9. The Advocate Commissioner has submitted the report along with the photograph. In the Commissioner's report, there is a finding that the petitioner is not able to discharge the treated water to outside the canal due to closure of the canal. The Commissioner has also submitted before this Court that treatment plant is available but the quality of treated water cannot be found out as the mill itself is not functioning.

10. The fact that there is a blockade to the water from the mill to the canal is evident and it is also admitted in the proceedings of the Executive Officer of the Puthuvayal Panchayat. Under such circumstances, the issue to be considered is as to whether the petitioner is entitled to a writ of mandamus, directing the respondents 4 to 6 to restore the blockade water discharging outlet of the petitioner's mill.

11. The learned counsel for the petitioner submitted that only because of the various legal proceedings initiated by the petitioner against the encroachers of the canal, this blockade has been done as a measure to compel the petitioner to withdraw those legal proceedings.

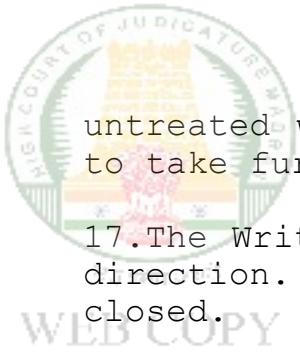
12. On the other hand, the learned Government Advocates for the respondents would justify the action by saying that the step taken by the authorities is only to protect the people from the effect of pollution.

13. A perusal of the order passed by the Executive Officer of Puthuvayal Town Panchayat states that because of the discharge of water from the mill, the people who are residing at the north side of the mill, suffered from health issues and they have also been affected mentally on account of this. But, the basis for this order is not available.

14. A perusal of the communication dated 19.11.2016 only go to show that only because of the public agitation, this order should have been passed. If really, the Executing Officer is concerned with the public sufferings, he should have directed the Officers concerned to visit the place and to find out the violations and he should have directed the Pollution Control Board to take further action. But it was not done.

15. Under such circumstances, the order passed by the Executive Officer dated 19.11.2016 closing the blockade itself is not correct and it is liable to be set aside.

16. The submission of the petitioner that only treated water is released into the canal and not untreated water is recorded. It is always open to the Pollution control Board to check whether only treated water is discharged from the mill of the petitioner and if



untreated water is released, it is for the Pollution Control Board to take further action.

17. The Writ Petition is disposed of with the above observations and direction. No costs. Consequently, W.M.P(MD)No.15732 of 2016 is closed.

Sd/-
Assistant Registrar (c)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District, Sivagangai.
2. The Revenue Divisional Officer,
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Sivagangai District.

+1cc to Mr. R.SUBRAMANIAN, ADVOCATE, SR NO.71847

MJ
SM-JM:17.02.2017:4P/8C

W.P(MD) No.22028 of 2016
22.11.2016