



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.10579 of 2011

and

M.P (MD) Nos.1 of 2011 and 1 of 2015

R.Sengai

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District.

2.The Block Development Officer,
Kariyapatti,
Virudhunagar District.

3.The President,
T.Veppankulam,
V.Nangoor Post,
Kariyapatti Taluk,
Virudhunagar District.

4.Malarkkodi Mayan

5.Mayan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to prevent the respondents 4 and 5 to use the public bore-well water meant for the public use for their own agricultural land.

For Petitioner : Mr.B.Senthilkumar

For Respondents : Mr.A.K.Baskarapandian,
Special Government Pleader for R.1

Mr.K.Mahendran for R.2 & R.3

Mr.N.Sathish Babu for R.5

No appearance for R.4

ORDER

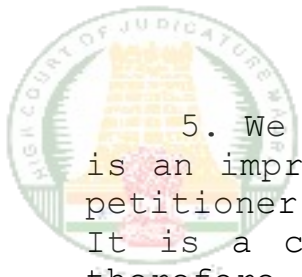
(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This writ petition is instituted by a resident of T.Veppankulam Village, V.Nangoor Post, Kariyapatti Taluk, Virudhunagar District, seeking a writ of Mandamus directing the respondents 1 and 2 to prevent the respondents 4 and 5 from using the public bore-well water for their agricultural purposes and instead, allow drinking water to be drawn from the said bore-well.

2. This writ petition is filed as a public interest litigation. However, we are required to notice the contents of the affidavit filed by the District Collector, Virudhunagar District, in respect of M.P(MD)No.1 of 2015 moved in this very case by him. In paragraph 4, it was set out that on 03.09.2015, he directed the Revenue Divisional Officer, Aruppukkottai, to make a Field Inspection and to submit a report. Accordingly, the Revenue Divisional Officer, Aruppukkottai, has visited the village and submitted a report on 09.09.2015, bringing out the ground realities prevailing in the village.

3. It appears that there was an unwarranted social tension created amongst various communities in the village, some of whom, belonged to the Scheduled Caste community. To prevent any escalation of social tensions, a Peace Committee Meeting was held by the District Collector, Virudhunagar District, on 02.12.2009. It was, during the course of the said meeting, that the members who belonged to the Scheduled Caste community have requested the District Collector to provide water sources for irrigating the lands belonging to 7 Scheduled Caste persons, who were not granted any right of ayacut of Chinna Kanmoi and further, there was no water flow from any tank or oorani to those lands. The District Collector saw merit in their request and hence, sanctioned a bore-well under the Draught Relief Scheme 2009-2010. For the purpose of digging the said bore-well, 5 cents of land situated in S.No.53/13 of the said village belonging to one Thiru.Mayan of Scheduled Caste community was donated. The said Mayan is impleaded as the fifth respondent herein. The gift deed executed by the said Thiru.Mayan has been registered on 05.03.2010, whereby the property gifted in favour of the State has been utilised for digging the bore-well, after the gift is accepted by the District Collector on behalf of the State.

4. It is, therefore, very clear to us that the bore-well which was sanctioned by the District Collector was dug in the land donated by the fifth respondent herein with a view to provide a source of irrigation, essentially, to the lands belonging to the Scheduled Caste community, who are the residents of that village and whose lands were not admitted to the ayacut of Chinna Kanmoi.



5. We are, therefore, convinced that the present writ petition is an improper exercise and it is a disguise employed by the writ petitioner for wrecking vengeance against the respondents 4 and 5. It is a clear case of abuse and misuse of process of law. We, therefore, find that this writ petition deserves to be dismissed.

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6. Accordingly, this writ petition is dismissed, directing the writ petitioner to pay costs of Rs.1,000/- (Rupees One Thousand only) to be deposited before the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai - 625 023, for which purpose, we grant 30 days time from today. Upon receipt of the same, the same shall be transmitted by way of an Account Payee Demand Draft drawn on any one of the Nationalised Banks or Post Offices, payable at par to the fifth respondent. The Demand Draft shall be despatched by the Registrar (Judicial) of this Court, by Registered Post with Acknowledgement Due. In case, the writ petitioner fails to deposit the costs as ordered by us now, the same shall be recovered by the District Collector, Virudhunagar District, as arrears of land revenue from the writ petitioner and the same be deposited with the Registrar (Judicial) of this Court. Consequently, M.P(MD)No.1 of 2011 is dismissed and M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (Record)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Virudhunagar District.
2. The Block Development Officer,
Kariyapatti, Virudhunagar District.

Copy to

1. The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai
 2. The Section Officer, Account Section,
Madurai Bench of Madras High Court, Madurai.
- +1cc to M/s.N.Sathish Babu, Advocate SR.No.45422
+1cc to M/s.B.Senthilkumar, Advocate SR.No.45193
+1cc to The Special Government Pleader SR.No.45340

W.P(MD)No.10579 of 2011

and

M.P(MD)Nos.1 of 2011 and 1 of 2015

16.08.2016