

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.23833/2017 & WMP.No.25062/2017

R.Velu

Petitioner

Versus

1.The District Collector
Tiruvannamalai,
Tiruvannamalai District.

2.The Revenue Divisional Officer
Tiruvannamalai,
Tiruvannamalai District.

3.The Tahsildar
Tiruvannamalai,
Tiruvannamalai District.

4.M.Kulandai Gounder

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 1st respondent in Na.Ka.No.Aa4/15540/2016 dated 12.10.2016 and quash the same by directing the respondents 1 to 3 herein to permit the petitioner to use the pipeline for the sole purpose of irrigation facilities from S.No.314/13C to S.No.324/5 of Sorakolathur Village, Tiruvannamalai Taluk and District through the S.No.310/1 [Government Poramboke Land], S.No.318/2 [Kulam Poramboke], S.No.317 [Mayana Poramboke] and S.No.321 [Padhai Poramboke] based on his representation dated 20.10.2016 and the statements given by the Village Administrative Officer, Sorakolathur Village.

For Petitioner : Mr.S.Kumaradevan

For R1 to R3 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Government Pleader accepts notice on behalf of the respondents 1 to 3.

2 The 4th respondent, on an earlier occasion, filed WP.No.8698/2016 against the official respondents herein as well as the writ petitioner herein, praying for issuance of a writ of mandamus, directing the 2nd respondent to consider his representations dated 31.08.2015 and 12.10.2015 respectively with respect to removal of underground pipeline laid beneath the public road by the 4th respondent therein / writ petitioner herein at Sorakulathur Village, Tiruvannamalai Taluk and District and this Court, vide order dated 09.03.2016, has disposed of the said writ petition, directing the 1st respondent herein to consider and dispose of the above cited representations submitted by the writ petitioner therein [4th respondent herein], after conducting enquiry and giving an opportunity of personal hearing to the petitioner therein and the necessary parties including the 4th respondent therein [writ petitioner herein] and give a disposal on merits and in accordance with law within the stipulated time.

3 The 1st respondent, in compliance of the said order, had summoned the 4th respondent therein / writ petitioner herein as well as the writ petitioner therein / 4th respondent herein and found that without adhering to the terms of G.O.Ms.No.558, Revenue Department, dated 11.06.1997 and the other connected Government Orders, the 4th respondent therein / writ petitioner herein had laid pipeline beneath the public land and therefore, recommended for initiation of action under the provisions of the Tamil Nadu Land Encroachment Act, 1905, and challenging the legality of the same, the writ petitioner herein came forward to file the present writ petition.

4 Mr.S.Kumaradevan, learned counsel for the petitioner has invited the attention of this Court to the typed set of documents and would submit that on account of severe drought, the petitioner is left with no other option to draw water by laying pipeline beneath the road and admittedly, no damage has been caused to the surface of the land and the other neighbouring land owners did not raise any objections except the 4th respondent herein who is on enmical terms with the writ petitioner herein and civil litigations are also pending between them and the 4th respondent herein, taking the law in his own hands, has also damaged the pipeline. It is also the submission of the learned counsel for the petitioner that in response to

the said impugned proceedings of the 1st respondent dated 12.10.2016, the petitioner has submitted his detailed representation dated 20.10.2016 and the said representation may be given disposal on merits and in accordance with law within a stipulated time frame and prays for appropriate orders, protecting the interest of the petitioner.

5 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the official respondents would submit that the petitioner did not obtain any permission, in terms of the Government Orders referred to in the Impugned Order, initiation of action is being recommended under the provisions of the Tamil Nadu Land Encroachment Act, 1905, and the remedy open to the petitioner, if any, is to wait for the initiation of action under the said Act and thereafter, work out his remedy in accordance with law.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 The petitioner in response to the impugned proceedings has submitted his reply stating that as per the Local Body Resolution, necessary permission has also been accorded and to save the standing crops only, he was compelled to take water through pipeline laid beneath the land, as time is taken to consider his representation.

8 In the light of the above facts and circumstances, this Court directs the 1st respondent to put the 4th respondent herein on notice and thereafter, consider and dispose of the petitioner's representation dated 20.10.2016 on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the 4th respondent herein and till such time, the respondents 1 to 3 shall defer further decision in terms of the impugned proceedings of the 1st respondent dated 12.10.2016.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ap

To

1.The District Collector
Tiruvannamalai,
Tiruvannamalai District.

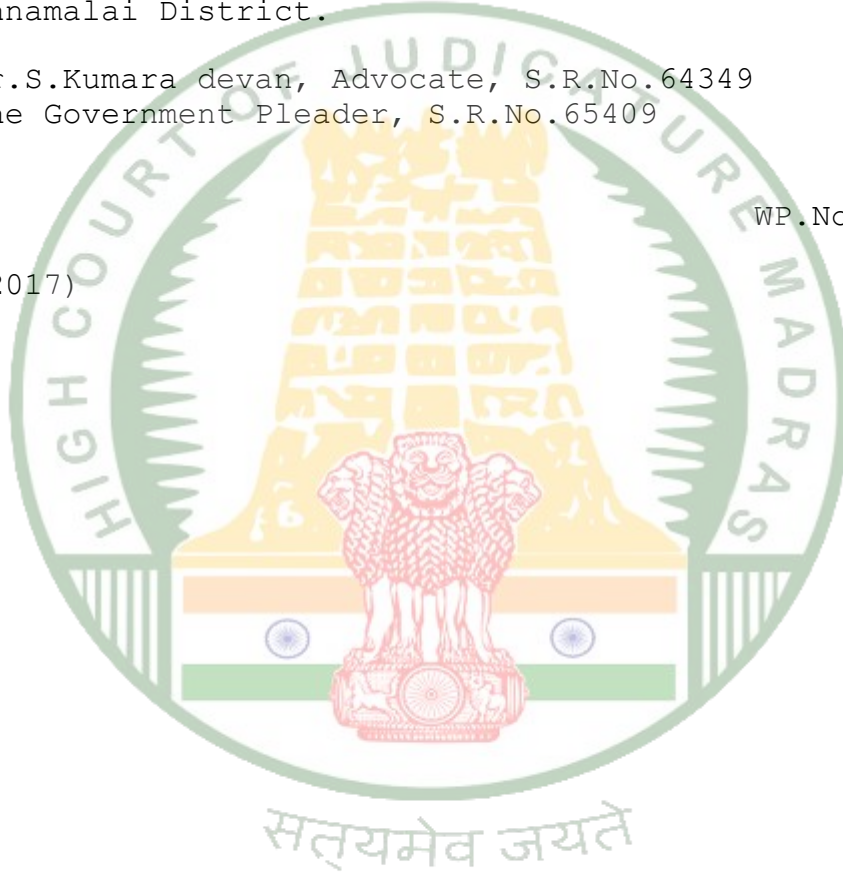
2.The Revenue Divisional Officer
Tiruvannamalai,
Tiruvannamalai District.

3.The Tahsildar
Tiruvannamalai,
Tiruvannamalai District.

+1cc to Mr.S.Kumara devan, Advocate, S.R.No.64349
+1cc to the Government Pleader, S.R.No.65409

WP.No.23833/2017

MSM(CO)
GN(27/09/2017)



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