



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.4820 of 2017

and

W.P (MD) No.21936 of 2016

and

W.M.P (MD) Nos.3842 & 3843 of 2017

and

W.M.P (MD) Nos.15679 & 15680 of 2016

W.P. (MD) No.4820 of 2017

K.Maruthaiah

.. Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government
Water Resources Department,
St.Fort George,
Chennai.

2.Engineer in Chief,
(Water Resources Organisation
Chief Engineer in General),
Public Works Department,
Chepauk, Chennai-600 005.

3.Chief Engineer WRD/PWD,
State Ground and Surface Water
Resources Data Centre,
Tharamani, Chennai.

4.The District Collector,
Collectorate,
Tirunelveli District.

5.The District Revenue Officer,
Office of the District Revenue Officer,
Kadayanallur,
Tirunelveli District.

<https://hcrs.cemilab.org/revdis/revdis.html>
6.General Revenue Divisional Officer,
Tenkasi,
Tirunelveli District.



7.The Tahsildar,
Kadayanallur,
Tirunelveli District.

8.The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Tirunelveli District.

9.Pollution Control Board,
No.30/2, Chikko Industries Estate, Pettai,
Tirunelveli District.

10.Tmt.S.Selvi Pandian .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents 1 to 9 from allowing/permitting the 10th respondent to run his company namely Aqua Packed Drinking Water company by utilizing underground water source for the purpose of manufacturing packaged drinking water in Survey No.1027/1 and 1027/2 in Door No.80, North Villai Colony Street, Krishnapuram Village by considering the petitioner's representation dated 15.06.2015.

For petitioner	: Mr.Niranjana S.Kumar
For R1 to R7	: Mr.M.Govindan Special Government Pleader
For R8	: Mr.J.Parekh Kumar for Mr.P.Srinivas, Advocate
For R10	: Mr.Veerakathiravan Senior Counsel for M/S.Veera Associates
For R9	: No Appearance

W.P. (MD) No.21936 of 2016

S.Selvi Pandian .. Petitioner

Vs.

The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Tirunelveli District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Na.Ka.No.3215/2014/H1 dated 03.11.2016, quash the same and consequently forbearing the respondent, his men or subordinates from interfering with the possession and business activities of the petitioner in running drinking water treatment plan in the name of I-Aqua Packaged Drinking Water in S.Nos.1027/1



& 1027/2 at Karuppaathi Road, Krishnapuram, Tenkasi Taluk, Tirunelveli District.

For petitioner

: Mr.Veerakathiravan
Senior Counsel for M/S.Veera Associates

For Respondent

: Mr.J.Parekh Kumar for
Mr.P.Srinivas, Advocate

C O M M O N O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The writ petitioner in W.P.(MD)No.4820 of 2017 seeks a direction, restraining the 10th respondent from running his company namely, Aqua Packed Drinking water by utilizing underground water in Survey No.1027/1 and 1027/2 in Door No.80, North Villai Colony Street, Krishnapuram Village.

2.The writ petitioner had submitted a representation dated 15.06.2015. Since no action was taken, the writ petition came to be filed.

3.Heard the learned counsel for the parties and also the learned Senior Counsel for the 10th respondent.

4.The learned Senior Counsel pointed out that the very filing of the writ petition is a motivated one.

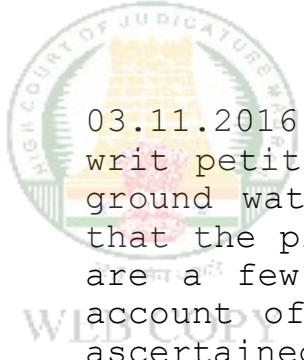
5.W.P(MD)No.21936 of 2016 has been filed to quash the order dated 03.11.2016 made in Na.Ka.No.3215/2014/H1, passed by the respondent. Since the issue involved in both the writ petitions are one and the same, both the writ petitions are taken for disposal together.

6.The learned Senior Counsel appearing for the writ petitioner in W.P(MD)No.21936 of 2016 pointed out that even though the writ petitioner has obtained the statutory license, the authorities acted against her.

7.The learned Senior Counsel pointed out that permission was issued by the Executive Engineer, PWD, Water Resource Organisation on 26.09.2012. He would further contend that they have not breached the conditions imposed on them. He also pointed out that the impugned order has been mechanically issued on the basis of the report of the Sanitary Inspector dated 25.10.2016. The Sanitary Inspector is not the competent authority and therefore the said report cannot be considered and hence the impugned order dated 03.11.2016 passed by the Municipal Commissioner, Kadayanallur Municipality has to be set aside.

<https://hcservices.ecourts.gov.in/hcservices/>

8.This Court sees considerable force in the said submission of the learned counsels. Therefore, the said order passed on



03.11.2016 is set aside. However, this Court cannot permit the writ petitioner in W.P(MD)No.21936 of 2016 to continue to extract ground water without a fresh verification exercise. It is seen that the proceedings issued in favour of the said writ petitioners are a few years old. The effect on ground water level on account of the writ petitioner's activities will have to be re-ascertained.

9.The concerned authorities will have to undertake a fresh verification exercise. The Commissioner, Kadayanallur Municipality will thereafter decide the issue afresh in accordance with law. The writ petitioner in W.P(MD)No.21936 of 2016 will have to be necessarily be heard, before passing such orders by the Municipal Commissioner, Kadayanallur Municipality.

10.The writ petitioner in W.P(MD)No.21936 of 2016 shall not be permitted to run her plant and tap underground water resources till a fresh license is issued by the Municipal Commissioner.

11.This Court makes it clear that the order impugned in W.P (MD)No.21936 of 2016 is quashed and the matter is remitted to the file of the Municipal Commissioner, Kadayanallur Municipality to pass a fresh order after obtaining the recommendations from the concerned authorities. It is seen that the writ petitioner had invested considerable sum of money to run the same, only after getting orders from the concerned departments. By virtue of the direction given in this proceeding, the said plant cannot run, till a fresh license is obtained. The Commissioner, Kadayanallur Municipality shall decide the matter and pass appropriate orders after associating the concerned authorities. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

12.Hence, both the writ petitions are allowed in the terms indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government, State of Tamil Nadu,
Public Works Department, St.Fort George, Chennai.



2. The Engineer in Chief, (Water Resources Organisation
Chief Engineer in General), Public Works Department,
Chepauk, Chennai-600 005.

3. The Chief Engineer WRD/PWD, State Ground and Surface Water
Resources Data Centre, Tharamani, Chennai.

4. The District Collector, Collectorate, Tirunelveli District.

5. The District Revenue Officer, Office of the District Revenue
Officer,
Kadayanallur, Tirunelveli District.

6. Revenue Divisional Officer, Tenkasi, Tirunelveli District.

7. The Tahsildar, Kadayanallur, Tirunelveli District.

8. The Commissioner, Kadayanallur Municipality, Kadayanallur,
Tirunelveli District.

9. The Pollution Control Board,
No.30/2, Chikko Industries Estate, Pettai,
Tirunelveli District.

+2cc to M/S.Niranjana S.Kumar, Advocate SR.No. 73543, 73542

+1cc to M/S.Veera Associates, Advocate SR.No. 73545

+1cc to M/S.P.Srinivas, Advocate SR.No. 74163

+1cc to Special Government Pleader, SR.No. 85510, 74230

W.P. (MD) No.4820 of 2017
and
W.P (MD) No.21936 of 2016
21.08.2017

SSS

JM/SKN RSK/SAR 2/21.09.2017/5P/15C