

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAIWAMY

W.P.No.6070 of 2017
and W.M.P.Nos.6511 & 6512 of 2017

M.Natarajan .. Petitioner

Vs.

1.The District Collector,
Tiruvannamalai District, Tiruvannamalai.

2.The Superintendent Police,
Tiruvannamalai District, Tiruvannamalai.

3.K.Chinnadurai

4.K.Barani

5.C.Ravi

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified mandamus calling for the records of the 1st respondent in respect of the order No.Na.Ka.C3/40878/2015 dated 07.06.2016 issued by the 1st respondent and to quash the same and direct the 1st respondent to stop the construction of a Well by using explosives by digging a Well at Narasingapuram Madura Kuppam, Tiruvannamalai District by respondents 3 to 5.

Petitioner : Mr.M.Natarajan, Party is person

For Respondents : Ms.Thanga Vadhana Balakrishnan
Additional Government Pleader (R1 & R2)
R3 to R5 - no appearance

O R D E R

The petitioner has filed the above Writ Petitions to issue writs of Certiorarified mandamus calling for the records of the 1st respondent dated 07.06.2016 issued by the 1st respondent and to quash the same and direct the 1st respondent to stop the construction of a Well by using explosives by digging a Well at Narasingapuram Madura Kuppam, Tiruvannamalai District by respondents 3 to 5.

2.It is the case of the petitioner that the respondents 3 to 5 were digging a Well within a distance of 150m from the petitioner's land and therefore, they should be prevented from digging the Well within the limit of 150 m. That apart, the petitioner also contended that the respondents 3 to 5 are digging the Well using explosives causing hardship to the petitioner.

3.The respondents 1 & 2 filed their counter wherein the 1st respondent has stated that in G.O.Ms.No.52 Public Works (R2) Department dated 02.03.2012 the restriction with regard to the distance between the two open Wells in respect of the agricultural lands has been exempted, therefore, as per the said Government Order, the adjoining land owners can dig a Well within a distance of 150 m.

4.The learned Additional Government Pleader appearing for the respondents 1 & 2 also produced the Government Order in G.O.Ms.No.52 dated 02.03.2012, along with a covering letter issued by the Executive Engineer, Public Works Department, Vellore addressed to the 1st respondent viz., the District Collector.

5.In paragraph 7 (3) of the Government Order, it has been stated as follows:

"...

3)The term "Schemes" excludes energisation of Agricultural pump sets by the Tamil Nadu Electricity Board. The present order may also exclude the groundwater drawal for a)Domestic purpose by individual household, b) Domestic Infrastructure project (Housing), c) Government's Drinking Water Supply Schemes and d) Non water based industries (i.e.- the industries which do not require and use water, either as raw material or for other processing). However, the domestic use of water by this non water based industries will be permitted by the Chief Engineer/ State Ground and Surface Water Resources Data Centre based on hydro geological conditions. (i.e. NOC from Chief Engineer, State Ground and Surface Water Resources Data Centre, Water Resources Department, Chennai). The list of non water based industries will be issued by the Industries Department of Government of Tamil Nadu separately."

6.From the above, it is clear that the restriction with regard to the digging of Well within the distance of 150 m is exempted in respect of agricultural lands. Therefore, I am of the considered view that the petitioner cannot prevent the respondents 3 to 5 from digging a Well within the distance of 150 m from a Well in his land.

7. So far as the using of explosives is concerned, the 1st respondent had passed a detailed order, which cannot be said as erroneous. That apart, the petitioner appearing in person also submitted that the respondents 3 to 5 have already dug the Well and completed the work long back. In these circumstances, the usage of explosives for digging Well does not arise for the present. In any event in future if the respondents 3 to 5 dig a Well using explosives, the 1st respondent should ensure safety and act according to the Rules and Regulations.

8. For the reasons stated above, I do not find any merits in the Writ Petition. The Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

va

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1. The District Collector,
Tiruvannamalai District, Tiruvannamalai.

2. The Superintendent Police,
Tiruvannamalai District, Tiruvannamalai.

+2CC to Mr.M.Natarajan, Advocate in SR.NO. 20784

+1CC to Government Pleader in SR.NO. 21411

W.P.No.6070 of 2017

and W.M.P.Nos.6511 & 6512 of 2017

MLT-26/03/2018

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