

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.26344 of 2005 and
W.P.M.P.No.28768 of 2005

M.Palani

...Petitioner

Vs.

1. State of Tamilnadu,
Rep. by the Secretary to
Government Local Administration
Department, Fort St. George,
Chennai 600 009.
2. The Chairman & Managing Director,
Madras Metropolitan Water Supply and Drainage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai 600 002 .
3. The Revenue Divisional Officer
Ponneri, Tiruvellur District.
4. The Tahsildar, Ponneri
Tiruvellur District.
5. The Inspector of Police
Ambattur, Tiruvallur District.
6. The Inspector of Police
Ambattur Industrial Estate,
Ambattur, Tiruvallur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, or any other appropriate Writ or order or direction in the nature of a writ, forbearing the respondents herein from interfering in any manner with the petitioner from extracting, transporting and supplying drinking water to employees of the factories, Government offices hospitals and public from the patta lands of the respective land owners in S.No.409/10-I, Ayapakkam Village No.73, 90 and Athipet village.

For Petitioner : Miss.P.Vedavalle.
For Respondents : Mr.G.B.Rajesh for R1, R3 to R6
Mr.R.N.Pandian for R2.

ORDER

The relief sought for in this writ petition is to forbear the respondents from interfering in any manner with the petitioner from extracting, transporting and supplying drinking water to the employees of factories, Government offices, hospitals and public from the patta lands of the respective land owners in S.No.409/10-I, Ayapakkam Village Nos.73, 90, Athipet village.

2. This court is of the opinion that Mines, Minerals, Water and other products beneath the earth is the Nation's property. Pattadars/owners of the property are not entitled to extract the water or any other minerals from the earth without the permission of the competent authority. This apart, the extraction of ground water, transportation and supply is now regulated by the State by issuing regulations. Thus, the writ petitioner has to comply with the conditions and the terms stipulated in the regulations and he can extract water by obtaining a proper permission/license from the competent authority and carry on his business. In other words, the petitioner is entitled to extract ground water, transport the same and supply it to his customers only under a valid license and by following the procedures contemplated under the Regulations issued by the State, in this regard. Extraction of ground water can never be claimed as a matter of right. The water under the earth, being the Nation's property, the State is empowered to issue regulations in this regard. Water is a State subject and in the State's list, under the Constitution of India. Thus the regulation has already been upheld and the State is competent to issue such regulations or enact laws, in this regard.

3.This being the principles, this Court is of the opinion that the relief, as such, sought for by the writ petitioner in the present writ petition, cannot be granted and the writ petitioner is entitled to approach the competent authorities for the purpose of grant of license in accordance with the law in force and carry on his business in a legal manner.

4.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

jbm/bga

To

1. The Secretary to Government of Tamilnadu
Government Local Administration
Department, Fort St. George,
Chennai 600 009.
2. The Chairman & Managing Director,
Madras Metropolitan Water Supply and Drainage Board,
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+1 CC to Govt. Pleader sr 84462.

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and
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NM(CO)
SP(02/01/2019)