

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.17592 of 2017

K.Raju

...Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Tiruppur District.
2. The Special Officer /
Block Development Officer,
Anikadavu Panchayat,
Kudimangalam Vattaram,
Kudimangalam.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records and to quash the impugned order dated 09.06.2017 made in Na.Ka.No.2083/2016/AA2 passed by the 2nd respondent preventing the petitioner from using the water from the petitioner's bore well situated in the petitioner's land and to direct the 2nd respondent to permit the petitioner to use water from the bore well for the purpose of irrigation cattle and personal use.

For Petitioner
For Respondents

: Mr.B.Vijayakumar
: Mr.B.Anand, G.A., for R1
Mr.R.Govindasamy, Spl.G.P., for R2

ORDER

Heard the learned counsel for the petitioner, learned Government Advocate for the first respondent and the learned Special Government Pleader for the second respondent and perused the materials available on record.

2. This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the order dated 09.06.2017 issued by the 2nd respondent, thereby preventing the petitioner

from using the bore-well dug in his private patta land.

3. The learned counsel for the petitioner submitted that the impugned order has been passed in violation of the principles of natural justice, since no notice or opportunity was given to the petitioner before passing the order.

4. Perusal of the records would show that the petitioner is an agriculturist and he owns lands in Survey Nos.544/B2, D1, 547/2, 548/D1 at Nanja Gounden Pudur Village and he has already dug bore-well for irrigating the crops, but by the impugned order, the second respondent directed him to not to use the bore-well.

5. It is settled law that any order involves civil consequences, such an order can be passed after complying with audi alteram partem. In other words, the party should be given an opportunity to meet his case before an adverse decision is taken against him.

6. However, in the case on hand, the respondent by the impugned order restrained the petitioner from using the bore-well without affording an opportunity. In my considered view, the petitioner should have been given an opportunity before passing the impugned order.

7. In that view, the order impugned in this writ petition is quashed and the respondent shall pass an order afresh, after providing an opportunity of hearing to the petitioner and in accordance with law.

8. With the above direction, the writ petition is allowed. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Tiruppur District.

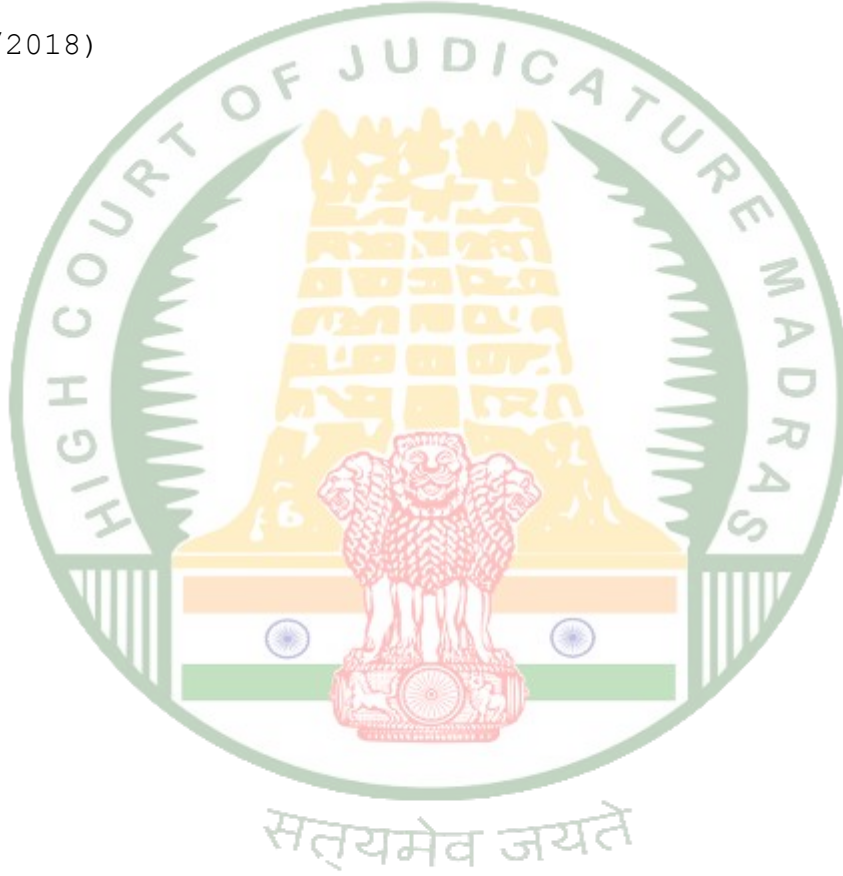
2. The Special Officer /
Block Development Officer,
Anikadavu Panchayat, Kudimangalam Vattaram,
Kudimangalam.

+1cc to Mr.B.Vijaya Kumar, Advocate, S.R.No.48768

+1cc to the Government Pleader, S.R.No.49335

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GSP (28/08/2018)



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