

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17587 of 2018

K.Pitchai

.. Petitioner

Vs.

1. The State of Tamil Nadu rep by its
Secretary to Government,
Municipal Administration and WaterSupply Department,
Fort St.George,
Chennai - 9.
2. The Chairman,
Tamil Nadu Pollution Control Board,
76, Anna Salai, Chennai.
3. The District Collector,
Niligiris District,
Udhagamandalam.
4. The District Forest Officer,
Gudalur, Niligiris District.
5. The Commissioner,
Gudalur Municipality,
Niligiris District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the 5th respondent to shift the dumping yard from O.S.No.195/2A, R.S.No.1281 at 27th Mile of Upper Gudalur, Gudalur Village to relocate the same at Padanthurai or to some other place.

For Petitioner : Ms.Selvi George

For Respondents 1 & 3 : Mr.T.N.Rajagopalan,
Government Pleader

For Respondent 2 : Mrs.Rita Chandrasekaran
Standing Counsel

For Respondent 4 : Mr.M.Santhanakrishnan,
Spl.G.P. (Forest)

For Respondent 5 : Mr.P.Srinivas,
Standing Counsel

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O R D E R

(Order of the Court was made by SUBRAMONIUM PRASAD, J.)

Instant writ petition is for a Mandamus directing the Commissioner, Gudalur Municipality, Nilgiris District, to shift the dumping yard from O.S.No.195/2A, R.S.No.1281 at 27th Mile of Upper Gudalur, Gudalur Village and to relocate the same at Padanthurai or to some other place.

2. The primary contention in the writ petition is that dumping yard is attracting herd of elephants, which is causing and is likely to cause danger to the people in that area.

3. The petitioner while filing the writ petition has averred that he has already filed an application to implead himself in a pending proceeding, dealing with the very same issue, before the Hon'ble National Green Tribunal. It is averred that the petitioner was constrained to approach this Court as no progress was made in that case because when the writ petition was filed, there was no Presiding Officer in the Hon'ble National Green Tribunal.

4. We are now informed that proceedings through video conferencing has commenced in the Hon'ble National Green Tribunal. The third respondent has also filed an affidavit dated 25.08.2018, stating as under:

"4. It is respectfully submitted that due to lack of Coram in the Southern Zone of the National Green Tribunal the Principal Bench at New Delhi holds hearing by Video Conferencing on every Monday and Wednesday of the week at 2 p.m. Further, it is necessary to state that the Southern Zone Bench of the National Green Tribunal is functioning and the matters pertaining to Solid Waste Management which is pending before the National Green Tribunal is listed for hearing on 27.08.2018 at 2 P.M."

5. We are informed that the very same matter was listed today i.e., 27.08.2018 as Item No.5 and the case has been adjourned to 5th September, 2018.

6. Since the Hon'ble National Green Tribunal has already started functioning and as the petitioner has already filed an application to implead himself as a party in the pending proceeding, dealing with the very same issue, before the Hon'ble National Green Tribunal, the same issue cannot be adjudicated upon by two Forums. Writ petition is hence dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St.George,
Chennai - 9.
2. The Chairman,
Tamil Nadu Pollution Control Board,
76, Anna Salai, Chennai.
3. The District Collector,
Niligiris District,
Udhagamandalam.
4. The District Forest Officer,
Gudalur, Niligiris District.

+1cc to Ms.Rita Chandrasekaran, Advocate, S.R.No. 59245
+1cc to Mrs. Selvi George, Advocate, S.R.No.58919.
+1cc to the Government Pleader, S.R.No.58802.
+1cc to the Government Pleader (Forest), S.R.No.58727

W.P.No.17587 of 2018

rrs 12/09/2018