

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No. 31762 of 2018

and

W.M.P.No.36982 of 2018

S.Pongiammal

...Petitioner

Vs.

1.The District Collector,
Erode District.
Erode - 638 011.

2.The Revenue Divisional Officer,
Gobichettipalayam
Erode District.

3.The Assistant Engineer,
Water Resources Organization,
Irrigation Division II
Gobichettipalayam
Erode District.

4.V.S.Sambasivam

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents or their subordinates from in any way forming a filed bothies in and over the petitioner's lands in S.F.No.65/2, Kalingiam Village, Gobichettipalayam Taluk, Erode District, till the disposal of her statutory appeal dated 27.11.2018 filed before the 1st respondent under Sec.5 of the Tamilnadu Irrigation Works (Construction of Field Bothies) Act, 1959 against the order impugned dated 25.10.2018 made in Mu.Mum.No.8652/2015/A1 passed by the 2nd respondent.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.E.Balamurugan (for RR 1 to 3)
Special Government Pleader

O R D E R

By consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed seeking to forbear the respondents or their subordinates from in any way forming a filed bothies in and over the petitioner's lands in S.F.No.65/2, Kalingiam Village, Gobichettipalayam Taluk, Erode District, till the disposal of her statutory appeal dated 27.11.2018 filed before the 1st respondent under Sec.5 of the Tamilnadu Irrigation Works (Construction of Field Bothies) Act, 1959 against the order impugned dated 25.10.2018 made in Mu.Mum.No.8652/2015/A1 passed by the 2nd respondent.

3. Though the prayer sought for in this Writ Petition is for a larger relief, the learned counsel appearing for the petitioner submitted that it would suffice if the appeal filed by the petitioner under Section 5 of the Tamilnadu Irrigation Works (Construction of Field Bothies) Act, dated 27.11.2018, against the order passed by the 2nd respondent on 25.10.2018 in Mu.Mum.No.8652/2015/A1, is directed to be disposed of by the first respondent within a stipulated period. He would further submit that the employees attached to the fourth respondent came to petitioner's land on 27.11.2018 at 10.30 a.m., and informed about their decision to or the field Bothie from the sluice constructed in S.F.No.60 to the land of the fourth respondent through the petitioner's lands in S.F.No.65/2. Therefore, he seeks that the implementation of the order impugned in the above said appeal before the first respondent should not to be proceeded with till the disposal of the appeal.

4. Heard Mr.E.Balamurugan, learned Special Government Pleader who accepts notice on behalf of the respondents 1 to 3.

5. Considering the facts and circumstances of the case and having regard to the submissions made, without going into the merits of the case, this Court directs the first respondent to pass orders on the appeal filed by the petitioner on 27.11.2018, on merits and in accordance with law, after issuing notice to the petitioner and the fourth respondent herein and also affording due opportunity of hearing to the petitioner, the fourth respondent as well as any of the interested parties, within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that the order impugned in the appeal, dated 27.11.2018 shall not be proceeded with till the disposal of the appeal.

6. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

arr

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District.
Erode - 638 011.

2. The Revenue Divisional Officer,
Gobichettipalayam
Erode District.

3. The Assistant Engineer,
Water Resources Organization,
Irrigation Division II
Gobichettipalayam
Erode District.

+1cc to Mr. N. Manokaran, Advocate, S.R.No.82460
+1cc to the Government Pleader, S.R.No.82943

W.P.No. 31762 of 2018
and
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SSI (CO)
KAK (26/12/2018)