



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A. [MD].Nos.810 and 811 of 2018

and

C.M.P. (MD)Nos. 4842 to 4847 of 2018

W.A. [MD].No.810 of 2018:

P.Poopirati

.. Appellant/1st Respondent/
Writ Petitioner

Vs.

1. M/s.Suzland Gujarat Wind Park Ltd
No.5, Shrimali Society,
Near Shree Krishna Complex,
Navrungpura, Ahmedabad,
Gujarat - 380 009.

.. Respondent No.1/Petitioner/
Respondent No.3

2. The District Collector,
District Collectorate Office,
Korampallam, Tuticorin,
Tuticorin District.

3. The Tuticorin Panchayat Union,
Represented by the Commissioner Special Officer,
Tuticorin Panchayat Union,
Pudhukottai, Tuticorin District.

..Respondent Nos.2&3/
Respondent Nos.2&3/ Respondent Nos.1 & 2

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, against the order, dated 10.04.2018 made in W.M.P.(MD) No.17188 of 2017 in W.P.(MD)No.19275 of 2017 on the file of this Court.

Prayer in WMP(MD)No. 17188/ 2017 :

Writ Miscellaneous Petition is filed under Article 226 of Constitution of India, praying this Court to vacate the interim order of status quo dated 13.10.2017 given by this Honble Court in WMP(MD)No.15607 of 2017 in WP(MD)No.19275 of 2017 and dismiss the above Writ petition on the file of the Hon'ble Court as it is devoid of merits.

Prayer in WP(MD)No. 19275/ 2017 :

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of



Respondent No.3 from installing any wind mill without obtaining permission from the Respondent No.2.

For Appellants : Mr.T.Lajapathi Roy

For R-1 : Mr.M.Ajmal Khan
for Ajmal Associates

For R-2 and R3 : Mr.K.Mu.Muthu
Additional Government Pleader

COMMON JUDGEMENT

[Judgement of the Court was delivered
by **K.RAVICHANDRABAABU, J**]

Mr.Ajmal Khan, learned Senior Counsel takes notice for the first respondent. Mr.K.Mu.Muthu, learned Additional Government Pleader takes notice for the respondents 2 and 3.

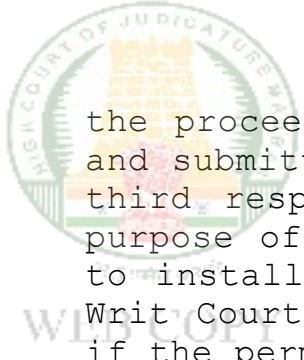
2.By consent, the main Writ Appeals itself is taken up for final disposal at the admission stage itself.

3.These appeals are directed against the interim order vacating the status quo, by the learned Single Judge in W.M.P.(MD) Nos.17102 and 17188 of 2017 in W.P.(MD)No.20379 and 19275 of 2017.

4.The appellants are the writ petitioners. They sought for Mandamus directing the official respondents to forbear the third respondent from installing any Windmill without obtaining permission from the second respondent/Panchayat Union. Originally the Writ Court granted an interim order of status quo. Thereafter, the third respondent filed a counter affidavit and the Writ Court by order, dated 10.04.2018, vacated the status quo granted already and posted the matter for further hearing on 11.06.2018. Challenging the said order, the present Writ Appeals are filed before this Court.

5.Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellants, Mr.Ajmal Khan, learned Senior Counsel appearing for the first respondent and Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for the respondents 2 and 3.

6.It is the contention of the learned counsel for the appellants that the finding of the learned Single Judge that the writ petitioners may not have a *locus standi* to maintain the writ petitions as well as, that the respondent/Panchayat Union has granted permission to install the windmill are factually incorrect. The learned counsel invited this Court's attention to



the proceedings, dated 08.03.2018 issued by the second respondent and submitted that the said proceedings granting permission to the third respondent was only to transport heavy vehicles, for the purpose of establishing the windmill and not a permission granted to install the windmill itself. Therefore, he contended that the Writ Court has misconceived the proceedings, dated 08.03.2018, as if the permission was granted to install the windmill.

7. On the other hand, the learned Senior Counsel Mr. Ajmal Khan, appearing for the first respondent herein submitted that there is no necessity to obtain any permission to install the Windmill and all these contentions are already raised in the counter filed before the Writ Court. He further submitted that it is only an interim order vacating the status quo and therefore, the appellants herein as the writ petitioners can raise all their contentions before the Writ Court, which has to ultimately consider and decide the main writ petitions on the merits of the matter.

8. We have perused the order impugned in these writ appeals. It is very clear that it is only a prima facie view expressed by the learned Judge for vacating the status quo order already granted and therefore, both parties are at liberty to raise their respective contentions before the Writ Court at the time of hearing the main writ petitions. As rightly contended by the learned counsel appearing for the appellant, the proceedings of the second respondent, dated 08.03.2018 referred to in the order of the learned single Judge, appears to have been passed only granting permission for transporting heavy vehicles for the purpose of establishing the Windmill. In any event as to whether any specific permission is required for establishing the Windmill or not, is the question that has to be considered and decided in the main writ petitions. Therefore, both parties are at liberty to raise all their contentions before the Writ Court at the time of hearing the writ petitions. Since the status quo order granted already is vacated, we request the Writ Court to take up the main writ petitions itself, and dispose of the same after hearing both the parties as expeditiously as possible at any event, on or before 29.06.2018.

9. With the above observations, the writ appeals are disposed of. We make it clear that we are not expressing any view on the merits of the contentions raised by both the parties. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1. The District Collector,
District Collector Office,
Korampallam, Tuticorin,
Tuticorin District.

2. The Commissioner Special Officer,
Tuticorin Panchayat Union,
Tuticorin Panchayat Union,
Pudhukottai, Tuticorin District.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+ 2 ccs TO Mr.T.Lajapathi Roy , Advocate in SR No. 68000,68299
+ 2 ccs TO M/S.Ajmal Associates , Advocate in SR No.68073, 68074
+ 1 cc TO The Special Government Pleader in SR No. 68256

raj2

AE/SB/SAR4/20.06.2018/5P/9C

W.A. [MD] .Nos.810 and 811 of 2018
13.06.2018