



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.13319 of 2017

and

W.M.P(MD)No.10393 of 2017

1.Kandasamy
2.Pasupathy

... Petitioners

-vs-

- 1.The District Collector,
Dindigul District.
- 2.The Junior Executive Engineer,
Electricity Sub-Division,
Chathirapatti,
Dindigul District.
- 3.The Special Officer,
Aalambadi Village Panchayat,
Guziliamparai Panchayat Union,
Dindigul District.
- 4.Thiru.Rajasekar,
Clerk-cum-Special Officer,
Aalambadi Village Panchayat,
Guziliamparai Panchayat Union,
Dindigul District.
- 5.The Executive Engineer,
TWAD Board,
No.1C, Thiruvalluvar Road,
Near Bus Stand,
Dindigul.

(R5 impleaded as per order of this Court made in
W.M.P(MD)No.13257 of 2017 in W.P(MD)No.13319 of 2017,
dated 4.9.2017) ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third respondent not to pump the water by installing the electric motor and safeguard the Petitioner's agricultural activities in S.No.818 of Chathirapatti Village of the third respondent Panchayat.



For Petitioners : Mr.V.Muthukamatchi
For Respondents : Ms.V.P.M.Vaishnavi
1 and 2 Government Advocate
For Respondent-3 : Mr.S.Kumar
For Respondent-4 : No appearance
For Respondent-5 : Ms.Porkodi Karnan
for M/s.Polax Legal Solutions

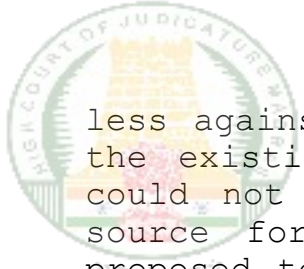
O R D E R

The relief sought for in this Writ Petition is for a direction to the third respondent not to pump the water by installing the electric motor and safeguard the Petitioner's agricultural activities in S.No.818 of Chathirapatti Village of the third respondent Panchayat.

2.The learned counsel for the Writ Petitioner states that the family of the Writ Petitioners are owning 10 acres of land in Chathirapatti Village in S.No.816, a hamlet of the third respondent Panchayat. The Petitioners state that out of ten acres of land, three acres of land were acquired for installation of Electricity Office. Remaining seven acres are under the possession of the Writ Petitioners and they are using the land for agricultural purpose.

3.The grievance of the Writ Petitioners are that due to continuance of monsoon failure in that particular locality, water level in the bore-well as well as in the well is in scarcity. Therefore, they are unable to continue the agricultural activities in the said land. Under these circumstances, the respondents have proposed to instal a bore-well adjacent to the land belong to the Writ Petitioners. It is contended that in the event of installing such a huge bore-well adjacent to the land of the Writ Petitioners, agricultural activities of the Petitioners will further affected and therefore the Petitioners are constrained to move the present Writ Petition seeking injunction not to instal any bore-well adjacent to the agricultural land belonging to the Writ Petitioners.

4.The learned counsel for the fifth respondent/TWAD Board vehemently opposed the contention by stating that the Writ Petition, at the outset Writ Petition is liable to be rejected on the ground that the project of installation of bore-well is proposed to provide drinking water to the people of that locality. Thus the public interest is of paramount importance and the claim of the Writ Petitioners is false and incorrect. It is contended that in order to provide drinking water facilities to Dindigul and Karur District, the TWAD Board had formulated a combined water scheme and the same is functioning from 1.1.2007 onwards and mainly the Dindigul Municipality, Four Rural Town Panchayats and 816 habitations are getting benefits from the said scheme. On account of the continuation of monsoon failure and non- surface flow in river cauvery, the water table has considerably lowered and the yield of the collector wells at Pudupalayam and Renganathapettai has become



less against the original designed quantity. Due to less yield in the existing collector wells, the designed quantity of the water could not be supplied to the beneficiaries through the original source for this CWSS. Under these circumstances, it has been proposed to drill one number of new bore-well under Drought Relief Programme, 2017 to mitigate the water scarcity problem. The new source location was fixed after conducting remote sensing, satellite imagery, lineament map, HGM Map and a detailed geophysical survey in and around Chatrapatti area was also conducted and then the Deputy Hydro-geologist had recommended the present source location. The Deputy Hydro-geologist also had given a detailed report analysing the feasibility of the new source in all aspects and then only the present location has been identified as a source point. The necessary spacing of 60 meter is available from the TWAD Board bore-well source to the private open well, as per the PWD norms. The private open well of the Writ Petitioners is only seasonal and in case of failure of monsoon, the open well becomes dry. The proposed bore-well of the TWAD Board is deeper in depth and the yield is obtained from the deeper depth aquifer. So there is no connection between the TWAD Board bore-well and the Petitioner's open well. The bore-well source will not affect the open well source. Due to monsoon failure, all the open well sources have gone either dry or the specific capacity has been reduced and hence the reduction of yield in the open well is not due to the influence of the bore-well. At the outset, the fifth respondent, states that the present Writ Petition was filed merely on apprehension and such apprehension is not based on any scientific facts. Thus the claim of the Writ Petitioners deserves to be rejected.

5. In support of the contentions, a report submitted by the Hydro geologist is also submitted. The Hydro-geologist made a finding as follows:

'While drilling the bore-well the springs occurred depth is observed at depth of 420 feet, 500 feet and 720 feet, after that boulders occurred and retard the further drilling. To avoid cone of influence and interference as per the P.W.D Norms, necessary spacing 60 metre is available from the TWAD Board Bore-well source to the Private Open well. Apart from this, the casing pipe is erected upto a depth of 21 metre to arrest the top highly weathered collapsible strata. In the private open well, the springs are occurred in the weathered mantle and the tapping only from 21m under normal seasonal condition. If the monsoon failure occurs the open well becomes dry. But, in TWAD Board bore-well, the deeper depth fractures and joints are the potential zone and the yield is obtained from the deeper depth aquifer. So there is no connection between the TWAD Board bore-well and the private open well. In the bore well source, the springs occurred depth reveals that the fact of occurrence and movement of the ground water in this unique type of crystalline hard rock terrain. Ground water occurrence



and movement is mainly controlled by textural and structural features.

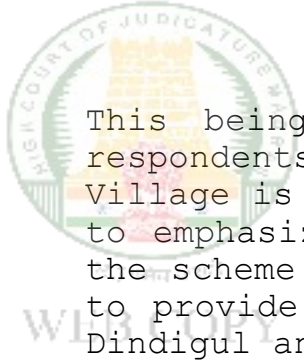
Therefore the bore well source will not affect the open well source. Due to monsoon failure all the open well sources have gone dry condition or the specific capacity has been reduced condition. The reduction of yield in the open well is not due to the influence of the bore well.

After 142 years back the severe drought has been met out in Tamil Nadu. It is the bounden duty of the Government/TWAD Board to provide portable and sustainable water supply to quench the thirst of the people., because water is an ELIXIR OF LIFE. So, top priority should be given for drinking water as a primary demand and the secondary priority may be considered for agricultural activities.'

6.Considering the arguments advanced by the respective counsels for the Writ Petitioners as well as the respondents, this Court is of an opinion that the fifth respondent has taken steps for installing the deep bore-well for the purpose of drinking water to Dindigul and Karur Districts. Providing drinking water to a citizen is the duty mandatory on the part of the state. Providing of pure and portable drinking water is a constitutional mandate and it is a right to live of all the citizens. The state has an obligation under the Constitution to provide portable drinking water to the citizen. In order to provide drinking water, a decision was taken after ascertaining the availability and the source of water in that particular area and the proposal was also mooted out. Thus there is no error or otherwise in respect of the decision taken by the respondents in this regard.

7.The grievance of the Writ Petitioners is that they are owning agricultural land to the extent of seven acres and in the event of digging a bore-well in the adjacent land, his agricultural activities will be affected. It is clarified by the Hydro-geologist that the deeper bore-well proposed to be installed adjacent to the land belong to the Petitioners will not have any impact in respect of the open bore-well situated in the agricultural land belong to the Writ Petitioners. When an expert opinion is provided that open bore-well situate in the Petitioners land will not be affected, the apprehension raised by the Writ Petitioners is just imaginary and not based on any scientific analysis.

8.This Court is of an opinion that even if there are some grievances regarding some agricultural land owners, providing drinking water to the citizen of this great nation is of paramount importance and the State may not have any compromise in this regard. However, the people are struggling to get drinking water. The priority cannot be given to the agricultural purpose. Top priority is to be provided for portable drinking water to the people of that locality and the other usages are certainly secondary in nature.



This being the principles to be followed, the proposal of the respondents for installation of a deep bore-well in Chathirapatti Village is to be upheld in all respects and this Court further want to emphasize that the competent authorities are bound to implement the scheme immediately and without causing any further delay, so as to provide portable water to that locality, more specifically, for Dindigul and Karur Districts. Thus the claim of the Writ Petitioners is based on mere apprehension and the same cannot be entertained in this Writ Petition. In this view of the matter, the Writ Petitioners have not established any ground for grant of the relief as such sought for in this Writ Petition.

9. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District.
2. The Junior Executive Engineer,
Electricity Sub-Division,
Chathirapatti,
Dindigul District.
3. The Special Officer,
Aalambadi Village Panchayat,
Guziliamparai Panchayat Union,
Dindigul District.
4. Thiru. Rajasekar,
Clerk-cum-Special Officer,
Aalambadi Village Panchayat,
Guziliamparai Panchayat Union,
Dindigul District.
5. The Executive Engineer,
TWAD Board,
No. 1C, Thiruvalluvar Road,
Near Bus Stand, Dindigul.

+1cc to M/S.K.K. Ramakrishnan, Advocate SR.No. 57225

+1cc to M/S. Porkodi Karnan, Advocate SR.No. 57192

+1cc to Special Government Pleader, SR.No. 57303

W.P. (MD) No. 13319 of 2017

and

W.M.P (MD) No. 10393 of 2017

21.03.2018