

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.14027 of 2019
and WMP.Nos.14084 & 14087 of 2019

M.Balasubramani

... Petitioner

vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Public Works Department, Ft., St. George,
Chennai - 600 009.
2. The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Upper Cauvery Basin Scheme,
Salem - 7.
3. The District Collector,
Namakkal District, Namakkal.
4. The District Revenue Officer,
Tiruchengode, Namakkal District.
5. The Tahsildar,
Tiruchengode Taluk,
Namakkal District. सत्यमेव जयते
6. The Executive Engineer
(Operation and Maintenance),
Mettur Electricity Distribution Circle,
Tiruchengode,
Namakkal District.
7. Kuppirikkapalayam Small Farmers Lift Irrigation Society,
Rep. by its President,
2/272, Molasi - 637 210,
Tiruchengode Taluk,
Namakkal District.

8. Rakkiyavalasu Small Farmers Lift Irrigation Society,
Rep. by its President,
2/274, Molasi - 637 210,
Tiruchengode Taluk,
Namakkal District.
9. Devampalayam Small Farmers Lift Irrigation Society,
Rep. by its President,
2/59-B, Padugaikadu Thottam,
Molasi - 637 210,
Tiruchengode Taluk,
Namakkal District.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned portion of the G.O.Ms.No.62 dated 18.02.2010 issued by the 1st respondent in permitting the respondents 7 to 9 to dig a Kudalai Well inside the River Cauvery comprised in S.F.No.346, Molasi Village, Tiruchengode Taluk, Namakkal District, quash the same and consequently directing the respondents 1 to 6 to remove the offending constructions and encroachments made in S.F.No.346 of the Rivery Cauvery and S.F.No.292 of Kodi Vaikkal, Molasi Village, Tiruchendoge Taluk, Namakkal District by considering the petitioner's representation dated 25.06.2018.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.E.Manoharan (for R1 to R5)
Additional Government Pleader

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Petitioner has sought for a writ of certiorarified mandamus, calling for the records relating to the impugned portion of the G.O.Ms.No.62 dated 18.02.2010 issued by the Secretary to Government of Tamil Nadu, Public Works Department, the 1st respondent herein, in permitting the Kuppirikkapalayam Small Farmers Lift Irrigation Society, Namakkal District, Rakkiyavalasu Small Farmers Lift Irrigation Society, Namakkal District and Devampalayam Small Farmers Lift Irrigation Society, respondents 7 to 9, respectively, to dig a Kudalai Well inside the River Cauvery comprised in S.F.No.346, Molasi Village, Tiruchengode Taluk, Namakkal District, quash the same and consequently to direct the respondents 1 to 6 to remove the offending constructions and encroachments made in S.F.No.346 of the Rivery Cauvery and S.F.No.292 of Kodi Vaikkal, Molasi Village, Tiruchendoge Taluk, Namakkal District by considering the his representation dated 25.06.2018.

2. We have heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.E.Manoharan, learned Additional Government Pleader appearing for the respondents 1 to 5. We have also perused the materials available on record and prima facie is of the opinion that grounds raised challenging the Government order do not support the prayer sought for. From the arguments we could perceive that that the petitioner is really aggrieved over the order made in letter dated 17.06.2010 of the Superintending Engineer, PWD N.A.A West Cauvery Outlet Circle, Salem, addressed to the President, Kuppirikkapalayam Small Farmers Water Lifting Cultivation Association, Tiruchengode Taluk, Namakkal District, by which permission has been granted to draw water from the well in cauvery river by electric motor. Letter reads thus:

Lr.No.169/Misc/K270/EVA 6/10 dated 17.06.2010

Sir,

Subject: Cultivation - Cultivation by water lifted up - Kuppirikkapalyam Small Farmers Water Lifting Cultivation Association Regn.No.16/1991 2/272, Mousi Post, Tiruchencodu Taluk, Namakkal District 637 210 - Doing cultivation in a total extent of 225 Acres owned by 106 cultivators, in Mousi Village, comprised in S.No.346 by water drawn from a Well formed in the Cauvery river by electric motor - Order issued determining the electric horse power - Regarding.

Ref: 1) G.O. (Ms) No. 62/ Public Works (No.1) Department dated 18.02.2010.
2) Letter No. 64, S.E./V/K/129/10 dt. 20.5.10 of the Executive Engineer, PWD, NAA Sarabanga Outlet Division, Namakkal.
3) Letter No. Nil dated 10.03.2010 of the President, Kuppirikkappalayam Small Farmers Lifted Water Cultivation Association, Tiruchencode Taluk, Namakkal District.

Approval has been given, vide Government order first referred above for doing cultivation for a total extent of 225 acres of land belonging to 106 owners connected with the Small Farmers Lifted water cultivation association, Kuppirikkapalayam, by drawing water from a Well dug in the Cauvery River in a land comprised in S.No.346, situate in Mousi Village,

Tiruchencode Taluk, Namakkal District, through electric motor, on the basis of conditions specified therein.

The lands under the control of the aforesaid Association drawing water from a Well dug in land comprised in Survey No.346 situate in Mousi Village, Tiruchencode Taluk, Namakkal District are lying in the under mentioned villages.

- | | |
|----------------------------|----------------|
| 1. Chozhasiramani Village: | 24/00 Acre |
| 2. Kuppirikkapalayam | : 106.50 Acre |
| 3. Kallippalayam | : 63/00 Acres |
| 4. Perunkurichi | : 31.50 Acres |
| Total | : 225.00 Acres |

So, approval is accorded for fixing electric motor of 400 H.P.(Horse Power Capacity of Four Hundred only) to carry water for cultivation in a total extent of 225 acres as per details set out in the statement annexed herewith and subject to the conditions set out in the annexure.

It is requested that letter by way of acknowledgment of this order may be sent forthwith.

Enclosure: 1. Statement 1
2. Conditions 1

(Sd)xxxx
Superintending Engineer, PWD,
West Cauvery Outlet Circle, Salem-7.

3. Learned counsel for the petitioner seeks permission to withdraw the instant writ petition, with liberty to challenge the letter dated 17.06.2010. He has also made an endorsement to that effect.

4. Placing on record the above, writ petition is dismissed as withdrawn. Liberty as prayed for, is granted. No Costs. Consequently, the connected Writ Miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
Rep. by its Pvt. Secretary,
Public Works Department,
Ft., St. George,
Chennai - 600 009.
 2. The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Upper Cauvery Basin Scheme,
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Namakkal District,
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Tiruchengode Taluk,
Namakkal District.
 6. The Executive Engineer
(Operation and Maintenance),
Mettur Electricity Distribution Circle,
Tiruchengode, Namakkal District.
- +1cc to Mr.N.Manokaran, Advocate, S.R.No.44766
+1cc to the Government Pleader, S.R.No.44706

WP.No.14027 of 2019
and WMP.Nos.14084 & 14087 of 2019

VSN-II (CO)
CS/05/07/2019

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