

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 29914 of 2018

C.Raju

... Petitioner

Versus

1. The District Collector,
Namakkal.
2. The Tahsildar,
Sendamangalam,
Namakkal District.
3. The Executive Engineer,
Public Works Department,
(WRD), Sarabanga Basin Division,
Namakkal.
4. The Block Development Officer,
(Village Panchayat),
Sendamangalam Panchayat Union,
Sendamangalam, Namakkal. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent Na.Ka.No.109/2018/Thi.1, dated 27.04.2018 and quash the same as illegal and direct the respondents to permit the petitioner to take water from the well situated in Valavanthi Kombai Village, Senthamangalam Taluk, having Natham Patta No.1035 comprised in Survey No.97/4.

For Petitioner : Mr.S.Muthukrishnan
For Respondents : Mr. V.Prabhu
Government Advocate

ORDER

This Writ Petition has been filed challenging the order passed by the 4th respondent refusing to grant permission to the petitioner to draw water from the well situated at Aachavadi village S.F.No.126/1D, Valavanthi Kombai Panchayat in Sendamangalam Panchayat Union in.

2. According to the petitioner, he is running poultry farm, manufacturing cattle feed, egg trading and sago starch in the name of Sri Venkateswara Agencies in Kilakuttai Village, Namakkal District. The petitioner has engaged more than 100 employees in the above said factory. Due to monsoon failure, there is no sufficient water in the well owned by the petitioner. Hence, he is taking water from the well situated in Survey No.126/1D in the Valavanthi Kombai Panchayat.

3. Earlier, when the 4th respondent refused to grant permission, the petitioner has approached this court by way of filing a Writ Petition in W.P. 2231 of 2016, and this court by an order dated 22.01.2016 directed the 4th respondent to consider the petitioner's application for granting permission. Pursuant to the order, the 4th respondent by an order dated 21.03.2016 permitted the petitioner to draw 6600 litres of water per day to cater the needs of the employees working in the above factory. In pursuant to the order, the petitioner also drawing water without any violation, and the petitioner is drawing the water only for the purpose of supplying drinking water to the employees working in the above factory. Now, all of a sudden, the impugned order has been passed by the 4th respondent refusing to grant permission on the ground that there is a drought in that area, and if the petitioner is permitted to draw water, it will leads drinking water scarcity. Challenging the said order, the present Writ Petition has been filed.

4. Mr.S.Muthukrishnan, learned counsel appearing for the petitioner submitted that, the petitioner is taking water only for the purpose of supplying drinking water to the employees working in the factory and not for any other commercial purpose. Considering all those facts only, earlier, the 4th respondent has granted permission. Now, all of sudden, the impugned order has been passed refusing to grant permission.

5. The learned counsel further submitted that even as per the impugned order, the Assistant Block Development Officer has also inspected the site, and submitted a report only saying that there is likelihood of drinking water scarcity, and the permission can be granted to the petitioner subject to any regulation. But, without considering the same, the impugned order has been passed.

6. Mr.V.Prabhu, learned Government Pleader appearing for the respondents submitted that there is a severe drought prevailing in that area and there is also drinking water scarcity, and if the petitioner is permitted to take water for any commercial purpose, it will only leads to severe drinking water scarcity in that area.

7. I have considered the rival submissions and perused the materials available on record carefully.

8. The main contention of the petitioner is that they are not drawing water for any commercial purpose, and they are only taking minimum quantity of water to cater the needs of the drinking water purpose for the employees working in the factory. Earlier, considering the above circumstances, the permission was granted, and he is also drawing water as per the earlier permission without any violation, and he never used the water for any other commercial purpose. Apart from that, there is no absolute water scarcity in that area as mentioned by the 4th respondent. The petitioner also willing to give a undertaking that they will draw only 6600 litres of water, and used it only for the drinking water facility for the employees working in the factory.

9. Considering the above circumstances, as already a similar permission has been granted to the petitioner in an earlier occasion by the 4th respondent, and the water is being used only for drinking water purpose of employees of petitioner factory, I am inclined to set aside the order passed by the 4th respondent, and the 4th respondent is directed to grant permission to the petitioner to draw 6600 litres of water per day and that water should be used only for the purpose of supplying drinking water to the employees. It is also made it clear that if any violation found in using the water for any other purpose, it is always open to the 4th respondent to cancel the permission. In the result, the present Writ Petition stands allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The District Collector,
Namakkal.
2. The Tahsildar,
Sendamangalam,
Namakkal District.

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3. The Executive Engineer,
Public Works Department,
(WRD), Sarabanga Basin Division,
Namakkal.

4. The Block Development Officer,
(Village Panchayat),
Sendamangalam Panchayat Union,
Sendamangalam, Namakkal.

+lcc to Mr.S.Muthukrishnan, Advocate sr.no.4716

+lcc to Government Pleader sr.no.4553

W.P. 29914 of 2018

nr 29/01/2019



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