

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.34056 and 33285 of 2018
and
W.M.P.Nos.39554 and 38629 of 2018

V.Sadasivam ... Petitioner
in W.P.No.34056 of 2018

Pon.Ramesh ... Petitioner
in W.P.No.33285 of 2018

Vs.

1. The District Collector,
Namakkal District.

2. The Superintendent of Police,
Namakkal District.

... Respondents 1 & 2
in W.P.No.34056 of 2018 and
WP.No.33285 of 2018

3. Thasildar,
Sendamangalam Taluk,
Namakkal District.

4. Village Administrative Officer,
Mendramadevi Village,
Sendamangalam Taluk,
Namakkal District.

...3 & 4 Respondents
in W.P.No.33285 of 2018

Prayer in W.P.No.34056 of 2018 :-

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to consider the representations of petitioner dated 04.12.2018 in person and 10.12.2018 through post and forbearing the respondents herein, their subordinates, officials, or any one serving under them from in any manner removing fencing surrounding the well and from digging black gold mineral soil from the well situated in Survey No.268/3A in Medramadevi Street, Muthukapatti, Senthamangalam Taluk, Namakkal District.

Prayer in W.P.No.33285 of 2018 :-

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents 1 to 4 to protect and preserve the black gold sand at Mendramadevi Village, Sendamangalam Taluk, Namakkal District and to deal with the same in a manner known to law.

For Petitioners : Mr.T.Dharani
in W.P.No.34056 of 2018

Mr.S.Udhayasankar
in W.P.No.33285 of 2018

For Respondents : Mr.E.Manoharan
Additional Government Pleader
(in both W.Ps)

COMMON ORDER

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

The petitioner in W.P.No.34056 of 2018 has filed the writ petition for a mandamus, to consider his representations dated 04.12.2018 and 10.12.2018, forbearing the respondents viz., the District Collector, Namakkal District/1st respondent and the Superintendent of Police, Namakkal District /2nd respondent from in any manner removing the fencing surrounding the Well and from digging black gold mineral soil from the Well situated at Survey No.268/3A in Medramadevi Street, Muthukapatti, Senthamangalam Taluk, Namakkal District.

2. President of Palapatti Post, Namakkal District has filed W.P.No.33285 of 2018 for a mandamus, directing the respondents viz., the District Collector, Namakkal District/1st respondent, the Superintendent of Police, Namakkal District/2nd respondent, the Thasildar, Sendamangalam Taluk, Namakkal District/3rd respondent and the Village Administrative Officer, Mendramadevi Village, Namakkal District/4th respondent, to protect and preserve the black gold sand at Mendramadevi Village, Sendamangalam Taluk, Namakkal District.

3. According to the petitioners, there is a Well in Mendramadevi Village, filled and covered with black gold sand, several years ago, with a view to protect the children and cattle from falling into the Well. Local politicians and other influenced persons are indulging in the act of smuggling the black gold sand. However, on the villagers' complaint, the Thasildar, Namakkal District/3rd respondent and the Village Administrative Officer, Namakkal District/ 4th respondent, have

put up a board indicating that the property belongs to Government. According to the petitioners, despite the board being put up, local anti-social elements are continuing their illegal activities. Hence, the petitioners sent representations dated 04.12.2018 and 10.12.2018, to the District Collector, Namakkal/first respondent and the Superintendent of Police, Namakkal District/second respondent, to prevent and take action against the persons indulged in smuggling the black gold sand and as the said representations remained unanswered, petitioners have sought for relief, as stated supra.

4. The Superintendent of Police, Namakkal District, the second respondent has filed a counter affidavit in W.P.No.34056 of 2018, wherein he has contended that Survey No.268/3A at Muthugapatty, Sendamangalam Taluk, Namakkal District, is a Government Poromboke land. According to him, there was a public Well meant for irrigation and subsequently, it was closed by filling with some waste black soil (claimed by few to contain gold particles) since there is no water due to failure of monsoon. Superintendent of Police, Namakkal District has further contended that the waste black soil was used to fill the public Well and that whether there is any black gold sand, mingled in the waste soil, has to be verified and certified by the department of Mines and Minerals. According to him, Well has been fenced and safely protected.

5. Superintendent of Police, Namakkal District has further contended that averments of the petitioner that some antisocial elements are trying to remove the fence with the knowledge of the Police Department is false, and on 04.12.2018, a complaint has been received requesting police protection to the petitioner's house and the apprehension of damage to the Well by antisocial elements, proper surveillance has been made.

6. Superintendent of Police, Namakkal District, has further submitted that the alleged waste black gold soil cannot be removed from the Well without the order of the District Collector, Namakkal District. A close watch in Survey No.268/3A has already been ordered and the same would be continued. The Village Administrative Officer of the Muthugapatty Village has been entrusted with the duty of taking care of the public Well. The Superintendent of Police, Namakkal District has also stated that police would take action in accordance with law on the perpetrators. Thus, he has submitted that the representations of the petitioners dated 04.12.2018 and 10.12.2018, have been duly considered and all the precautionary steps are taken by the police department and close watch, is kept on the public Well from any tresspass or encumbrance.

7. Mr.T.Dharani, learned counsel for the petitioner in W.P.No.34056 of 2018, invited the attention of this Court, to the order made in I.A.No.3 of 2019 in O.S.No.8 of 2019, between Sarasu and 9 others and Padmavathi and another on the file of the Additional District Munsif Court, Namakkal.

8. Learned counsel for the petitioner submitted that in above said suit, an interim order has been passed permitting the plaintiffs/petitioners, to remove sand from the well. Learned counsel further submitted that the suit appears to be a false suit.

9. Representations of the petitioners have been answered as stated supra. The Superintendent of Police, Namakkal District in his counter affidavit has categorically stated that Well in Survey No.268/3A at Muthugapatty, Sendamangalam Taluk, Namakkal District, is a Government poromboke and that is now been fenced.

10. Order made in I.A.No.3 of 2019 in O.S.No.8 of 2019, on the file of the Additional District Munsif Court, Namakkal District does not indicate as to whether the plaintiffs therein, have categorically stated that the plaintiffs have furnished any documents, supporting the ownership and the order made in I.A.No.3 of 2019 in O.S.No.8 of 2019 does not indicate as to whether the Additional District Munsif, Namakkal has considered any documents for granting relief as prayed for.

11. Therefore, it would be appropriate for the parties herein to take out an application for impleading the District Collector and the Superintendent of Police, Namakkal District, in the suit in I.A.No.3 of 2019 in O.S.No.8 of 2019, to protect the Government Poromboke, as specifically averred by the Superintendent of Police, Namakkal District. After impleading the Superintendent of Police, can move an application for vacating the order dated 18.01.2019, stating that the parties in the suit have not shown the Government, as a party and obtained an order of interim injunction. Since on the prayer made in the writ petitions, action has already been taken, writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ms

To

1. The District Collector,
Namakkal District.
2. The Superintendent of Police,
Namakkal District.
3. The Village Administrative Officer,
Mendramadevi Village,
Sendamangalam Taluk,
Namakkal District.
4. The Thasildar,
Sendamangalam Taluk,
Namakkal District.

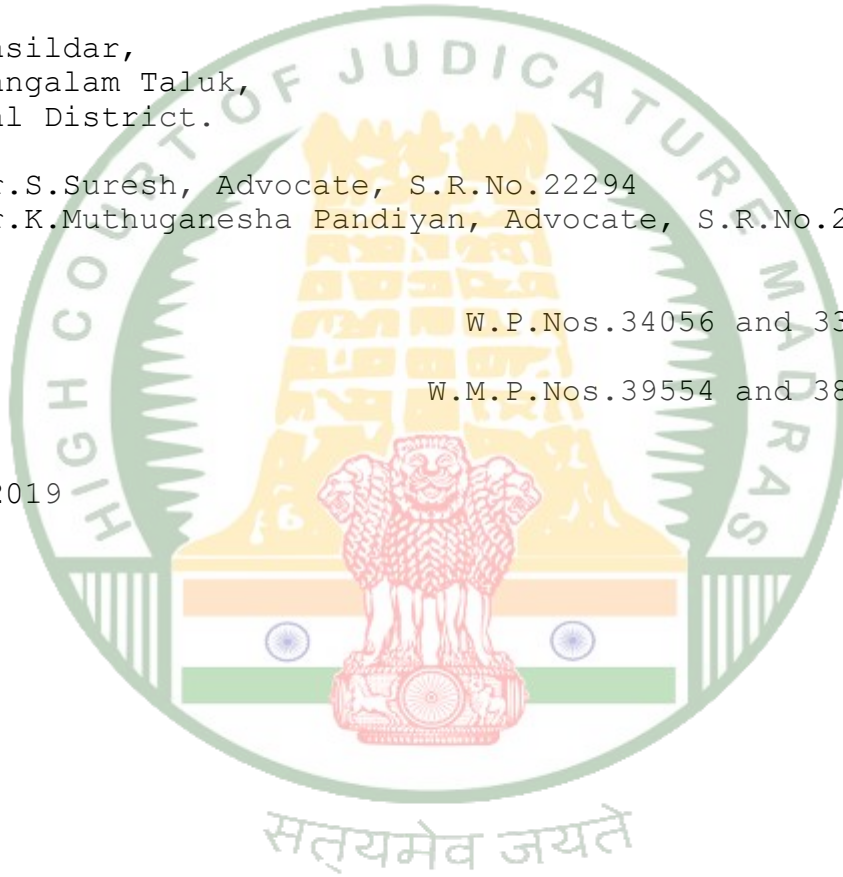
+lcc to Mr.S.Suresh, Advocate, S.R.No.22294

+lcc to Mr.K.Muthuganesha Pandiyan, Advocate, S.R.No.22121

W.P.Nos.34056 and 33285 of 2018
and

W.M.P.Nos.39554 and 38629 of 2018

GP(CO)
CS/13/03/2019



WEB COPY