



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.8166 of 2019

and

W.M.P. (MD) .Nos.6420, 16197 and 15638 of 2019

WEB COPY

K.Maruthaiah

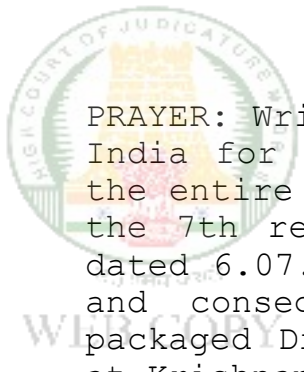
...

Petitioner

vs.

- 1.State of Tamil Nadu
rep. by its Secretary,
St. George Fort,
Secretariat,
Chennai.
- 2.The Chief Engineer,
WRD/PWD
Ground and Surface Water,
Resources Data Centre,
Tharamani, Chennai.
- 3.The District Collector,
Collectorate,
Tirunelveli District.
- 4.The District Revenue Officer,
Office of the District Revenue Officer,
Kadayanalur,
Tirunelveli District.
- 5.The Revenue Divisional Officer,
Office of the RDO,
Tenkasi,
Tirunelveli District.
- 6.The Tahsildar,
Office of the Tahsildar,
Kadayanallur, Tenkasi Taluk,
Tirunelveli District.
- 7.The Municipal Commissioner
Kadayanallur Municipality,
Kadayanallur,
Tirunelveli District.
- 8.Tmt.S.Selvi Pandiyan

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records in connection with the impugned Licence passed by the 7th respondent Vide his proceedings Ref.No.Na.Ka.No.2612/18/H1 dated 6.07.2018 in favour of the 8th respondent and quash the same and consequently forbear the 8th respondent from running her packaged Drinking water unit in Survey No.1027/1, 1027/2 situated at Krishnapuram Village, Kadayanalur Municipality.

For Petitioner : Mr.Niranjana S.Kumar
For Respondent : Mrs.S.Padmavathy Devi
Special Govt. Pleader for RR-1 to 6

Mr.M.Rajarajan for R-7

Mr.K.Devaraj for R-8

O R D E R

This writ petition has been filed, challenging the impugned Licence issued by the 7th respondent, dated 6.07.2018 in favour of the 8th respondent and also to forbear the 8th respondent from running her packaged Drinking water unit in Survey Nos.1027/1, 1027/2 situated at Krishnapuram Village, Kadayanalur Municipality.

2.The writ petitioner aggrieved over the extraction of underground water through borewells for commercial purpose already filed a Public Interest Litigation vide W.P.(MD).No.4820/2017. A Honourable Division Bench of this Court vide its order dated 21.08.2017 gave a direction to the authorities to verify the indiscriminate exploitation of water resources and thereafter to grant permission to the water companies. But, according to the petitioner, by flouting the order of the Honourable Division Bench, the 7th respondent has granted license to the 8th respondent to run the aqua company. Aggrieved over the same, the petitioner is before this Court.

3.The learned counsel appearing for the 8th respondent would vehemently contend that writ petition is not maintainable for want of locus standi, forum shopping and abuse of process of law. According to the eighth respondent, she filed a writ petition in W.P.(MD).No.21936/2016 against cancellation of license, which was allowed by the Honourable Division Bench on the ground that it was passed by an incompetent person and a further direction was issued to refer the matter to the competent authority for taking a decision after affording opportunity to her. In the official transaction between the petitioner and the official respondents, a third party (the present writ petitioner) cannot intervene and maintain a writ petition. If at all he is aggrieved, he can file a writ petition for a positive relief and the present writ petition filed at the behest of her business rivals for a negative relief, is not



maintainable.

4.The learned counsel for the petitioner would rely upon an order passed by the Honourable Constitution Bench in **Sardar Amarjit Singh Kalra (Dead) by LRs and Others Vs Pramod Gupta (Smt) (Dead) by LRs. And Others**, reported in **(2003) 3 Supreme Court Cases 272**. In the said judgment, the Honourable Supreme Court has held as follows:

"The only exception to this course of action should be totally unenforceable and mutually self-destructive and unworkable vis-a-vis the other part, which had become final. As far as possible, courts must always aim to preserve and protect the rights of parties and extend help to enforce them rather than deny relief and thereby render the rights themselves otiose, "ubi jus ibi remedium" (where there is a right, there is a remedy) being a basic principle of jurisprudence. Such course would be more conducive and better conform to a fair, reasonable and proper administration of justice."

5.But in the case on hand, there is no established right on the petitioner to interfere with the action done by the official respondents, as he is not an aggrieved person. Even though the petitioner himself is affected to an extent of exploitation of water, it does not give him any vested right or established right much less any legal right to raise interpersonal dispute. It is purely based on public interest. It was also preceded by a public interest litigation as seen above by way of filing W.P.(MD). No.4820/2017.

6.A perusal of the materials would go to show that there are lot of litigations between the petitioner and the 8th respondent before various authorities. In such circumstances, it is always open to the petitioner to pursue his remedy by way of filing Public Interest Litigation, but it cannot be by way of personal interest litigation without *locus* or cause.

7.In view of the same, the writ petition is dismissed for want of *locus standi* to maintain the same before this Court. Further, this Court is of the view that the writ petitioner cannot be treated as an aggrieved person and hence, the writ petition is liable to be dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)



vs

To:

1.The Secretary,
State of Tamil Nadu
St. George Fort,
Secretariat,
Chennai.

2.The Chief Engineer,
WRD/PWD
Ground and Surface Water,
Resources Data Centre,
Tharamani, Chennai.

3.The District Collector,
Collectorate,
Tirunelveli District.

4.The District Revenue Officer,
Office of the District Revenue Officer,
Kadayanalur,
Tirunelveli District.

5.The Revenue Divisional Officer,
Office of the RDO,
Tenkasi,
Tirunelveli District.

6.The Tahsildar,
Office of the Tahsildar,
Kadayanallur,
Tenkasi Taluk,
Tirunelveli District.

7.The Municipal Commissioner
Kadayanallur Municipality,
Kadayanallur,
Tirunelveli District.

+1CC TO MR.M.RAJARAJAN, Advocate Sr. No.92077
+1CC TO MR.NIRANJAN.S.KUMAR, Advocate Sr. No.92046
+1CC TO MR.R.DEVARAJ, Advocate Sr. No.91882
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 92127

W.P. (MD) No.8166 of 2019
14.10.2019

AVS (CO)
TR(30.10.2019) 4P 12C