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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.09.2019

CORAM:

**THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM
AND**

THE HONOURABLE Mrs. JUSTICE R.THARANI

Writ Petition (MD).No.9306 of 2019

and

W.M.P. (MD) No.7573 of 2019

M.Muthu

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Public Works (R2) Department,
Fort St. George, Chennai -9.
- 2.The District Collector,
Madurai District, Madurai.
- 3.The Revenue Divisional Officer (RDO),
Madurai, Madurai Collectorate,
- 4.The Tahsildar,
Vadipatti Taluk,
Madurai District - 625 218.
- 5.The Executive Engineer,
PWD - WRO,
Ground Water Division,
Public Water Division,
Public Works Department Complex,
Tallakulam, Madurai - 625 002.

6.P. Chidhambaram

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to take permanent necessary legal action against the unauthorised indiscriminately sucking of ground water for commercial purposes by the sixth respondent in his land at Saranthangi hamlet at Vadipatti Taluk, Madurai District based on the report of the fifth respondent letter No.8/உழுபுள/கோ.7(B)/2018, dated 04.02.2019 and the petitioner's representation dated 20.02.2019.



For Petitioner : Mr.A.B.Natarajan
For Respondents 1 to 5 : Mr.A.K.Baskara Pandian, Spl. GP
For Respondent No. 6 : Mr.K.Gurunathan

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J**)

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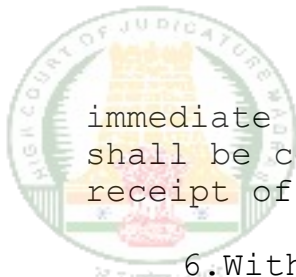
Heard Mr.A.B.Natarajan, learned counsel appearing for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents 1 to 5 and Mr.K.Gurunathan, learned counsel appearing for the 6th respondent.

2.The petitioner is before this Court alleging that the sixth respondent has been indiscriminately exploiting the groundwater from his land and selling the same for commercial purpose. This is the second time, this Court has been approached for such a relief. It appears that pursuant to the direction issued in the earlier writ petition, action was initiated.

3.The learned counsel for the petitioner has drawn the attention of this Court to the proceedings of the fifth respondent, dated 04.02.2019. On a reading of the said proceedings, it is seen that no permission has been granted. However, the learned counsel for the sixth respondent asserts that the Panchayat has granted permission. It is not known as to whether the Panchayat is empowered to grant permission, especially, when the land is situated near the public bore well or a waterbody or a water canal. The photographs have been filed by the sixth respondent to show that he is not selling the water for commercial purpose, but he is supplying free water to the residents of the village and he is not utilising the electricity provided by the Electricity Board but using the DC generator.

4.The sixth respondent however further contented that the bore well was already sealed and well was also dried up. If the Bore well had already been sealed that itself shows that there is a violation, otherwise, the authority would not seal the bore well. It is not clear as to when the photographs were taken and when the well was dried up. In any event, it is seen that the respondents 4 and 5 have to ensure as to whether there is any illegal exploitation of water for commercial purpose. If the water is drawn for *bonafide* domestic use, that can be permitted. Considering the facts of the case, we are of the view that unless surprise inspection is conducted on the property of the sixth respondent, the truth will not be established.

5.Therefore, we do not make any observation on this regard, but we direct the respondents 4 and 5 to conduct surprise inspection of the petitioner's property at appropriate time to ascertain the full facts and if there is any violation, the respondents shall take



immediate action against the sixth respondent. The above direction shall be complied with within a period of two weeks from the date of receipt of copy of this order.

6. With the above directions, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

/ True Copy /

Sub Assistant Registrar (CS-)

To

1. The Secretary,
State of Tamil Nadu,
Public Works (R2) Department,
Fort St. George, Chennai -9.
2. The District Collector,
Madurai District, Madurai.
3. The Revenue Divisional Officer (RDO),
Madurai, Madurai Collectorate,
4. The Tahsildar,
Vadipatti Taluk, Madurai District - 625 218.
5. The Executive Engineer,
PWD - WRO, Ground Water Division,
Public Water Division,
Public Works Department Complex,
Tallakulam, Madurai - 625 002.

+1 CC to M/s.K.GURUNATHAN, Advocate (SR-87611[F] dated 19/09/2019)
+1 CC to M/s.SPL GP (SR-87960[F] dated 19/09/2019)
+1 CC to M/s.A.B.NATARAJAN, Advocate (SR-88106[F] dated 20/09/2019)

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mrn/sji

ES/01.10.2019/3P/9C