



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.20119 of 2019

and

W.M.P(MD)No.16657 of 2019

WEB COPY

1.M.Petchiammal
2.M.Krishnakumar

... Petitioners

vs.

1. The District Collector,
Theni District.
2. The Sub Collector/Revenue Divisional Officer,
Uthamapalayam Taluk,
Theni District.
3. The Divisional Engineer,
Highways (Construction & Maintenance),
Theni District.
4. The Superintending Engineer,
Public Works Department,
Theni District.
5. The Tahsildar,
Uthamapalayam Taluk,
Theni District.
6. The Commissioner,
Chinnamanur Municipality,
Theni District.
7. Vijaya Rajan,
President,
Theni District, Uthamapalayam Taluk,
Karunkattankulam Nanjai Pattadhar,
Vivasayigal Nala Sangam,
Uthamapalayam - 625 533.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to forbear the respondents 1 to 6 from in anyway interfere with the carrying of water from the petitioner's bore well situated in S.No.1309 in Chinnamanur to their land in S.No.713, 716 and 727 in Karunkattankulam Village, through the pipe line as permitted by the third respondent, for agricultural and farming purpose, on the complaint of the seventh respondent, except under the due process of law.



For Petitioners : Mr.R.Suriya Narayanan
For Respondents : Mr.M.Pandiarajan
Additional Government Pleader
for R.1 to R.5
: Mr.M.Karuppasamy
Government Advocate
for R.6

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ORDER

Mr.R.Suriya Narayanan, learned counsel on record for writ petitioners is before this Court.

2.Mr.M.Pandiarajan, learned Additional Government Pleader accepts notice on behalf of respondents 1 to 5 and Mr.M.Karuppasamy, learned Government Advocate accepts notice on behalf of the sixth respondent.

3.To be noted, respondent No.7 is a private respondent. In the hearing, learned counsel for writ petitioners restricts the prayer to disposal of representation. From the abridged prayer it comes to light that an order, which is not adverse to the rights of the respondent No.7 (private respondent) can be passed, after making sufficient and adequate safe-guards in this regard which shall be set out *infra* elsewhere in this order.

4.With consent of learned counsel on record for the writ petitioners and learned Additional Government Pleader and learned Government Advocate, who accept notice on behalf of respondents 1 to 5 and respondent No.6 (official respondents), main writ petition is taken up, heard out and is being disposed of.

5.The main writ petition turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioners' representation dated 26.08.2019 wherein writ petitioners have requested authorities concerned not to interdict writ petitioners carrying water from their land for agricultural and animal husbandry activities in their land.

6.Notwithstanding several averments made in the affidavit filed in support of the writ petition, notwithstanding several grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioners (as mentioned supra) abridges the scope of the writ petition and submits that it will suffice if the first respondent is directed to dispose of the aforementioned representation of the writ petitioners, dated 26.08.2019, details of which have been alluded to supra.



7.Learned State counsel submitted that the first respondent is the authority who shall consider the aforementioned representation dated 26.08.2019 made by the writ petitioners (page Nos.19 to 21 of the typed set of papers forming part of the case file).

8.The aforesaid representation dated 26.08.2019 shall be disposed of by the first respondent on its own merits and in accordance with law as expeditiously as possible and in any event, within a period of eight weeks from the date of receipt of a copy of this order.

9. It is made clear that in the course of the representation being considered by the first respondent, if the right of any other third party / parties or any other third party entity / entities is / are likely to be affected, the first respondent shall put on notice and give reasonable opportunity to such third party / parties or third party entity / entities, before disposing of the aforementioned writ petitioners' representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter.

10. It is also made clear with specificity that seventh respondent have to be put on notice and given a reasonable opportunity by the first respondent before taking a decision. To be noted, this is the safeguard qua rights of seventh respondent as alluded to supra.

11.Though obvious, it is made clear that petitioners abridging the prayer will not tantamount to writ petitioners giving up the contentions raised in the writ petition. In other words, all contentions raised in the writ petition are left open.

12.The proceedings / order of disposal shall be communicated by the office of the first respondent to the writ petitioners and seventh respondent under due acknowledgement within seven working days from the date of proceedings / order.

13.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The District Collector,
Theni District.
- 2.The Sub Collector/Revenue Divisional Officer,
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Theni District.
- 5.The Tahsildar,
Uthamapalayam Taluk,
Theni District.
- 6.The Commissioner,
Chinnamanur Municipality,
Theni District.

+1 CC to Mr.R.SURIYANARANAN, Advocate SR-87663.
+1 CC to SPL GP SR-88395.

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CS (09.10.2019) 4P 9C