



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.19443 of 2019
and
W.M.P(MD)No.15882 of 2019

M.Pitchaikani

... Petitioner

/vs./

- 1.The District Collector, Theni District.
- 2.The Sub Collector / R.D.O.,
Uthamapalayam Taluk, Theni District.
- 3.The Divisional Engineer,
Highways (Construction & Maintenance),
Theni District.
- 4.The Superintending Engineer,
Public Works Department,
Theni District.
- 5.The Thasildhar,
Uthamapalayam Taluk,
Theni District.
- 6.The Commissioner,
Chinnamanur Municipality,
Theni District.
- 7.Vijaya Rajan, President,
Theni District, Uthampalayam Taluk,
Karunkattankulam Nanjai Pattadhar
Vivasayagal Nala Sangam,
Uthampalayam - 625533.

... 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.494/2A in Karunkattankulam village to the petitioner's land in S.No.51/1B in Erasakkanyakanur village, through the pipe line as permitted by the 3rd respondent, for agricultural and farming purpose, on the complaint of the 7th respondent, who is not under the due process of law.

<https://hosecourtservice.in/hosecourtservice>



For Petitioner : Mr.R.Suriya Narayanan
For R-1 to R-5 : Mr.Aayiram K.Selvakumar
Additional Government Pleader
For R-6 : Mr.M.Karuppasamy
Government Advocate

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ORDER

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

2. Mr.Aayiram K.Selvakumar, 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 respondent No.6.

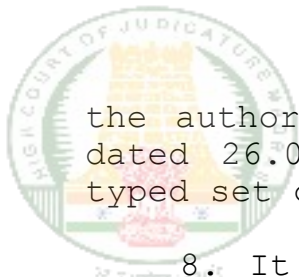
3. To be noted, respondent No.7 is private respondent. In the hearing, learned counsel for writ petitioner restricts the prayer to disposal of representation. From the abridged prayer it comes to light that an order, which is not adverse to 7th respondent (private respondent) can be passed, after making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

4. With consent of learned counsel on record for the writ petitioner and learned Additional Government Pleader and learned Government Advocate, who accepts notice on behalf of respondents 1 to 5 and respondent No.6 respectively, (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 petitioner's representation dated 26.08.2019 wherein writ petitioner has requested authorities concerned to not to interdict writ petitioner carrying water from his land for agricultural and animal husbandry activities in his land, on the basis of a complaint said to have been given by the 7th respondent.

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 petitioner (as mentioned supra) abridges the scope of the writ petition and submits that it will suffice if the third respondent is directed to dispose of the aforementioned representation of the writ petitioner, dated 26.08.2019, details of which have been alluded to supra.

<https://hcservices.ecourts.gov.in/hcservices/> 7. Learned State counsel submitted that the third respondent is



the authority who shall consider the aforementioned representation dated 26.08.2019 made by the writ petitioner (page No.37 of the typed set of papers forming part of the case file).

8. It is made clear that in the course of the representation being considered by the third respondent, if the rights of any other third party / parties or any other third party entity / entities is / are likely to be affected, the third respondent shall put on notice and give reasonable opportunity to such third party / parties or any other third party entity / entities, before disposing of the aforementioned writ petitioner's representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. It is also made clear with specificity that respondent No.7 has to be put on notice and given a reasonable opportunity by the third respondent before taking a decision.

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

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

11. The proceeding / order of disposal shall be communicated by the office of the third respondent to the writ petitioner under due acknowledgement within seven (7) working days from the date of completion of aforesaid exercise.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector, Theni District.



2.The Sub Collector / R.D.O.,
Uthamapalayam Taluk, Theni District.

3.The Divisional Engineer,
Highways (Construction & Maintenance),
Theni District.

4.The Superintending Engineer,
Public Works Department,
Theni District.

5.The Thasildhar,
Uthamapalayam Taluk,
Theni District.

6.The Commissioner,
Chinnamanur Municipality,
Theni District.

+1 CC to M/s.M.KARUPPASAMY, Advocate (SR-85921[F] dated
09/09/2019)

+1 CC to M/s.R.SURIYANARAYANAN, Advocate (SR-85952[F] dated
09/09/2019)

+1 CC to M/s.GP (SR-86122[F] dated 10/09/2019)

Order made in
W.P (MD) No.19443 of 2019
Dated: 09.09.2019

JMN(26.09.2019) 4P : 10C