

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1231 of 2012
M.P.Nos.2 and 3 of 2012

P.Karthikeyan

... Petitioner

Vs

1. The Executive Engineer,
Public Works Department,
Parambikulam Division,
Parambikulam,
Pollachi Taluk,
Coimbatore District.

2. R.Nachimuthu

3. P.Kalimuthu

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari, calling for the records of the order of the first respondent in letter No.Tho.Nu.Pa/Va.Aa/Ko.IA/11, dated 10.08.2011 and quash the same.

For petitioner : Mr.P.Muthukrishnan

For respondents : Ms.K.Bhuvaneswari - For R1
Additional Government Pleader

Mr.B.Gopalakrishnan

For Mr.T.Sathyaseelan - For R2

O R D E R

This Writ Petition has been filed challenging the order dated 10.08.2011 passed by the first respondent, cancelling the permission granted to the petitioner to lay pipelines across the canal for conveying water from his open well, which is situated in S.No.619/2A1.

2. Earlier, the first respondent had granted permission to the petitioner to lay pipelines by the proceedings dated 26.10.2010. By the impugned order, the first respondent has cancelled the permission on the ground that a suit has been

filed by the second respondent in O.S.No.727 of 2010, pending on the file of the learned District Munsif, Pollachi, seeking for cancellation of the permission granted by the first respondent to the petitioner to lay pipelines.

3. The learned counsel for the petitioner, today, has produced the judgment dated 17.08.2016, passed in O.S.No.727 of 2010. As seen from the aforesaid judgment, the suit filed by the second respondent against the petitioner seeking for cancellation of permission granted by the first respondent for laying pipelines has been dismissed for default.

4. In view of the dismissal of the suit in O.S.No.727 of 2010, the impugned order dated 10.08.2011 passed by the first respondent has to be quashed, since the ground for cancellation of the permission, as seen from the impugned order is only due to the fact that the second respondent has filed a suit, seeking for cancellation of the permission granted to the petitioner to lay pipelines through the Government lands.

5. It is now represented by the learned Additional Government Pleader appearing for the first respondent, after referring to paragraph Nos.5,6 and 7 of the counter affidavit filed by the first respondent, that the petitioner is attempting to take water through unauthorised pathway without proper permission from the Public Works Department.

6. Recording the submissions made by the learned Additional Government Pleader for the first respondent as well as the paragraph Nos.5,6 and 7 of the counter affidavit filed by the first respondent, the impugned order dated 10.08.2008 issued by the first respondent is hereby quashed. However, liberty is granted to the first respondent to take action against the petitioner if the petitioner is found to take water through any unauthorised pathway without proper permission from the Public Works Department, in accordance with law, after giving opportunity to the petitioner to raise all objections with regard to the said action. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

rli

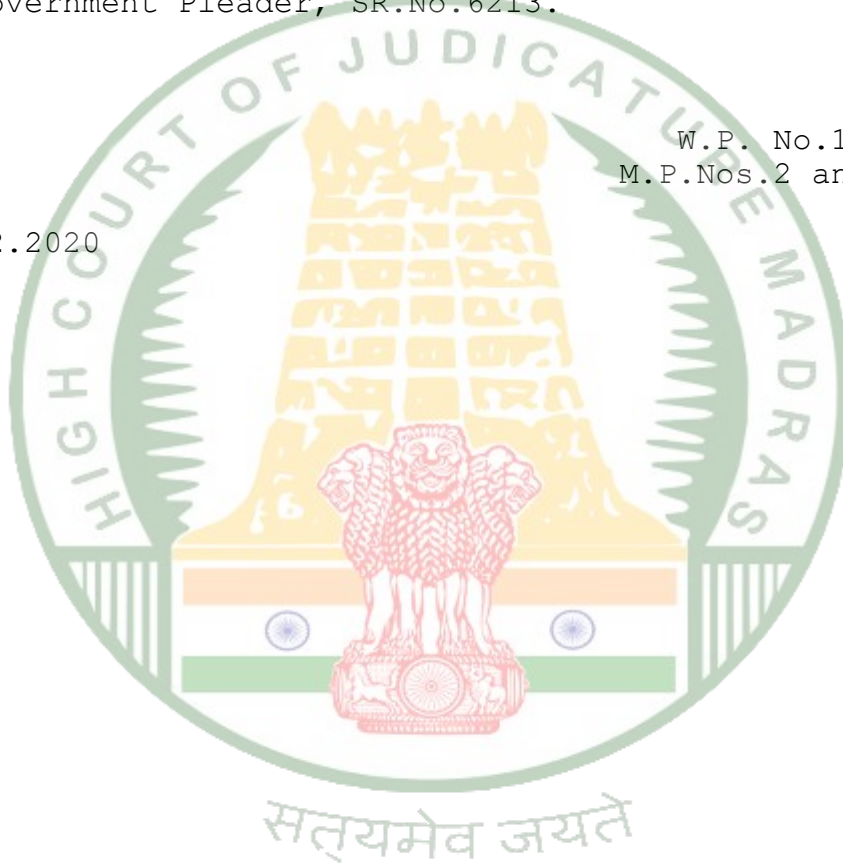
To

The Executive Engineer,
Public Works Department,
Parambikulam Division,
Parambikulam,
Pollachi Taluk,
Coimbatore District.

+lcc to Mr.T.Sathyaseelan, Advocate, SR.No.5645.
+lcc to Mr.P.Muthukrishnan, Advocate, SR.No.6366.
+lcc to Government Pleader, SR.No.6213.

VBA (CO)
CSR: 26.02.2020

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