

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.11705 of 2016

K.R.Subramaniam

... Petitioner

Vs

1. The District Collector,
Erode District,
Erode.

2. The Executive Engineer,
Water Resource Organization,
Lower Bhavani Basin Division,
Erode-2.

3. The Assistant Executive Engineer,
Water Resource Organization,
Lower Bhavani Basin Division,
Erode - 2.

4. The Assistant Engineer,
Water Resource Organization,
Arachalur - 638 101,
Erode District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 and 2 to give permission to the petitioner to lay pipeline in PWD lands i.e. S.F. Nos.1188/2, 1190/2, 1191/2 & 1192/2 for taking water from the petitioner's well in S.F. No.1157/3B to the lands of the petitioner in S.F. No.1191/9 and 1191/10 in Thulampoondurai village (B), Erode District.

For petitioner : Ms.Shase
for
Mr.M.Guruprasad

For respondents : Mr.R.S. Selvam
Government Advocate

ORDER

This writ petition has been filed for a Mandamus to direct the respondents 2 to 4 to give permission to the petitioner to lay pipelines in PWD lands i.e. in S.F. Nos.1188/2, 1190/2, 1191/2 & 1192/2 at Thulampoondurai village (B), Erode District for taking water from the petitioner's well in S.F. No.1157/3B to the lands of the petitioner in S.F. No.1191/9 and 1191/10.

2. It is the case of the petitioner that he gave representation on 26.09.2013 to the second respondent seeking permission to lay pipelines through the lands of the second respondent (PWD) for his agricultural activities. It is also the case of the petitioner that a copy of the representation was handed over to the third and fourth respondents also and he was advised by the fourth respondent to survey the land with the aid of the Government Surveyor by proceedings dated 27.09.2013. It is also his case that he has paid the necessary fee of Rs.400/- on 30.09.2013 for surveying the said lands.

3. According to the petitioner, the surveyor visited his property and laid survey stones within two months of his application. According to the petitioner, the respondents 2 to 4 did not come forward to give permission for the reasons best known to them. According to the petitioner some unscrupulous persons have removed the survey stones and the respondents 2 to 4 have informed the petitioner through a RTI query that they have asked the Tahsildhar to once again survey the land. It is the case of the petitioner that the Tahsildar has not taken any steps to survey the land and the respondents 2 to 4 are keeping the application of the petitioner seeking permission to lay pipelines pending without any explanation. It is also the case of the petitioner that another person from his village has already been given permission to lay the pipelines in the PWD lands i.e. SF Nos. 1188/2, 1190/2, 1191/2 and 1192/2. According to the petitioner, this being the case, the petitioner should also be given the permission to lay the pipelines for his agricultural purposes through the PWD lands.

4. Heard Ms.Shase, learned counsel for the petitioner and Mr.R.S. Selvam, learned Government Advocate appearing for the respondents.

5. Admittedly, the second respondent has not till date considered the representation dated 26.09.2013 submitted by the petitioner seeking permission to lay the pipelines through the PWD lands i.e. in SF Nos. 1188/2, 1190/2, 1191/2 and 1192/2 at Thulampoondurai village (B), Erode District.

6. It is also the case of the petitioner that another person from the same village has been given permission to lay the pipelines in the same village through PWD lands. If the statement of the petitioner is found to be true, it would amount to discrimination between villagers which cannot be done. This being the case, this Court is of the considered view that the second respondent will have to consider the representation, dated 26.09.2013 of the petitioner in accordance with law and if the second respondent had granted permission to another villager to lay pipelines through the same PWD lands in SF Nos.1188/2, 1190/2, 1191/2 and 1192/2 and the second respondent is found to be not entitled for the same permission, while passing final orders on the representation dated 26.09.2013 given by the petitioner, the second respondent shall give reasons as to why the petitioner's case was different from that of the other villager who was accorded permission to lay pipelines through PWD lands in SF Nos. 1188/2, 1190/2, 1191/2 and 1192/2.

7. In the result, the second respondent is directed to dispose of the representation dated 26.09.2013 seeking permission to lay the pipelines through the lands of the second respondent i.e. SF Nos. 1188/2, 1190/2, 1191/2 and 1192/2 at Thulampoondurai village (B), Erode District and pass final orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is made clear that final orders shall be passed by the second respondent after giving sufficient opportunity to all the interested parties including the petitioner.

8. With the aforesaid directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District,
Erode.

2. The Executive Engineer,
Water Resource Organization,
Lower Bhavani Basin Division,
Erode-2.

3. The Assistant Executive Engineer,
Water Resource Organization,
Lower Bhavani Basin Division,
Erode - 2.

4. The Assistant Engineer,
Water Resource Organization,
Arachalur - 638 101,
Erode District.

+1cc to Mr.M.Guruprasad, Advocate Sr.1553
+1cc to the Government Pleader Sr.2240, 2720

W.P. No.11705 of 2016

rk[co]
srg 19/02/2020



WEB COPY