

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. Nos.24106, 26258 and 24659 of 2013
and
MP Nos.1 of 2013; 1 and 2 of 2013
and
1 and 2 of 2013

Palanisamy Petitioner
in
WP No.24106 of 2013

P.Kumarasamy Petitioner
in
WP Nos.26258
and
24659 of 2013

Vs

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The President,
K.Ayyampalayam Village Panchayat
Palladam Block,
Tirupur District.*

.... Respondents
in all W.P.s

* Impleaded as per order dated 08.10.2013
in MP Nos.2 and 3 of 2013 in
W.P Nos.24106 and 24659 of 2013

Prayer in WP No.24106 of 2013 :Writ Petition filed under
Article 226 of the Constitution of India to issue a Writ of
Certiorari to call for the records relating to the impugned
order dated 12.08.2013 passed in Na.Ka.No.1892/2013/A4 on the
file of the respondent herein, quash the same.

Prayer in WP No.26258 of 2013 :Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings passed in Na.Ka.No.1892/2013/A4, dated 12.08.2013 on the file of the 1st respondent herein and quash the same and consequently direct the 1st respondent to permit the petitioner to draw water from the well in S.No.74/1 natham poromboke in Kasba Ayyampalayam Village, Palladam Taluk, purusant to the proceedings dated 25.01.1936 passed by the erstwhile collector of Coimbatore having Ref. No.R.Dis.18888/36 for irrigating the family's lands in S.F. No.73/3 & 73/4 in Kasba Ayyamapalayam Village, Palladam Taluk provided the water level in the well is more than 10 feet.

Prayer in WP No.24659 of 2013 :Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order dated 12.08.2013 passed in Na.Ka.No.1892/2013/A4, on the file of the respondent herein and quash the same.

For petitioner in WP Nos.24106
and 24659 of 2013 : Mr.K.Govi Ganesan
For petitioner in WP
No.26258 of 2013 : Ms.C.Uma

For respondents in all W.P.s : Mr.R.S. Selvam,
Government Advocate for R1
Ms.Kavitha Renjini C.P.
for M/s.S.Sithirai Anandan for R2

COMMON ORDER

These writ petitions have been filed challenging the order passed against the respective petitioners by the first respondent revoking the permission granted to the respective petitioners to draw water from the Well located at S.F. No.74/1 K.Ayyampalayam, Palladam Taluk, Tirupur district.

2. It is the case of the respective petitioners that they have been using the aforesaid well from 1936 onwards and drawing water from the said Well for their irrigation purposes. According to them, by the impugned order arbitrarily without any notice and without holding any enquiry, the first respondent has revoked the permission granted to the respective petitioners in the year 1936. Aggrieved by the same, the respective petitioners have filed separate writ petitions, which are the subject matter of consideration.

3. Since the issue involved in all these petitions are one and the same, all these writ petitions are disposed of by a common order.

4. A counter affidavit has also been filed by the second respondent stating that the respective petitioners have violated the conditions stipulated for usage of the Well and they are a) the respective petitioners have prevented the public from taking water from the Well b) 3 ft. water has not been maintained in the Well and c) water charges have not been paid for the extra water drawn from the Well for the purpose of irrigation. It is also their case that notice was given to the petitioner prior to the passing of the impugned order and an enquiry was also held.

5. Heard the learned counsel on both sides.

6. This Court has perused and examined the impugned order. As seen from the impugned order, there is no reference to any notice having been given to the respective petitioners by the first respondent before passing of the impugned orders. Admittedly, no enquiry has been conducted by the first respondent before passing of the impugned orders. Though it is the case of the respondents that notice dated 16.05.2013 was sent to each of the petitioners, the same is not reflected in the impugned orders and a copy of the same has also not been produced by the respondents before this Court. Therefore, it can be inferred that no notice was sent by the respondents to the respective petitioners prior to the passing of the impugned orders.

7. For the foregoing reasons, it is clear that principles of natural justice have been violated by the respondents before passing of the impugned order. It is an admitted fact that the respective petitioners were using the Well from 1936 onwards and all of a sudden without any notice to the respective petitioners and without holding any enquiry, the first respondent has revoked the permission granted to the petitioner for the usage of the Well, which in the considered view of this Court is arbitrary and violates the principles of natural justice.

8. In the result, the impugned order, dated 12.08.2013 passed in Na.Ka.No.1892/2013/A4 is hereby quashed and the matters are remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders after affording sufficient opportunity to all the petitioners including granting them the right of personal hearing within a period of eight weeks from the date of receipt of a copy of this order.

9. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

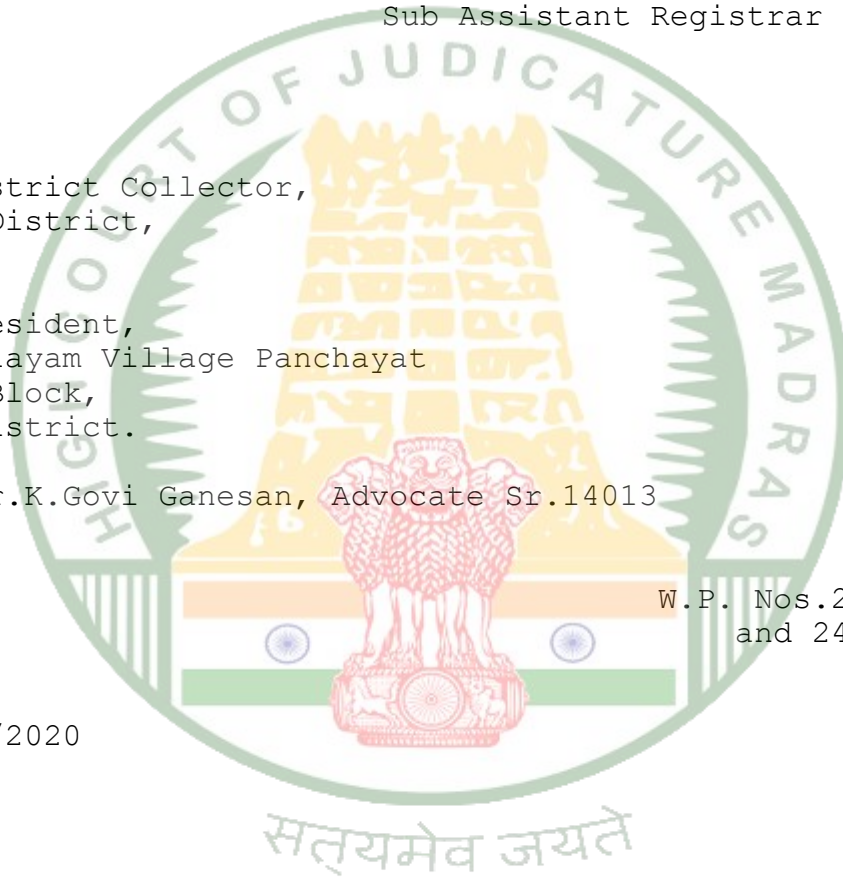
1. The District Collector,
Tiruppur District,
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2. The President,
K.Ayyampalayam Village Panchayat
Palladam Block,
Tirupur District.

+1cc to Mr.K.Govi Ganesan, Advocate Sr.14013

W.P. Nos.24106, 26258
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