

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.5604 of 2020

S.Lalitha

...Petitioner

-Vs-

1. The Coimbatore,
Coimbatore City Municipal Corporation,
Big Bazaar Street,
Town Hall,
Coimbatore - 641 001.

2. Junior Engineer,
Corporation Office,
Thudiyalur,
Coimbatore - 641 001.

3. The District Collector,
7/1, State Bank Road,
Gopalapuram,
Coimbatore - 641 018

4. Revenue Divisional Officer,
Revenue Divisional Office,
Coimbatore (North),
Kavundampalayam,
Coimbatore

5. The Tahsildar,
Dr.Balasundaram Road,
Near Womens Polytechnic College,
ATT Colony,
Gopalapuram,
Coimbatore - 641 018.

6. The Village Administrative Officer,
Thudiyalur, Coimbatore.

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to pass orders on my representation dated 06.02.2020, within the time stipulated by this Court and also to permit the petitioner to dig bore well at the petitioner's above mentioned address for domestic purpose.

For Petitioner : Mr.Prasanna D

For Respondents : Mr.K.Natarajan
Standing Counsel for R1, R2.
Mr.S.N.Parthasarathi
Government Advocate for R3 to
R6.

ORDER

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This writ petition has been filed for the issue of writ of
Mandamus directing the 1st respondent to pass orders on the

representation made by the petitioner on 06.02.2020, wherein the petitioner has sought for a permission to dig a bore well in her property for her domestic use.

2. The case of the petitioner is that she owns a property at Thudiyalur Village. The petitioner wanted to dig a bore well in her property. The grievance of the petitioner is that the officials belonging to the respondent corporation stopped the work on the ground that the petitioner did not obtain any permission. The petitioner therefore made a representation on 15.12.2019. Thereafter, followed it up with another representation dated 06.02.2020. Since the same did not evoke any response, the present writ petition has been filed before this Court, seeking for appropriate directions.

3. The learned counsel for the petitioner submitted that the petitioner need not take any permission from the authorities, since the bore well is being dug only for domestic purpose. The learned counsel by bringing to the notice of this Court the Tamil Nadu Ground

Water (Development and Management) Act 2003 and the stipulated guidelines adopted by the State Ground Water Department dated 28.01.2011 and also the relevant Panchayat Rules, submitted that no permission is required for digging a bore well for domestic usages.

4. The 1st and 2nd respondents have filed a counter affidavit in this case. The relevant portions in the Counter affidavit is extracted hereunder :-

9.Regarding the present issue alleged by the petitioner it is to be made note of that the petitioner has not till date submitted any representation before these respondents in the issue of sinking a bore well in their property. It is to made note of that within the Coimbatore Corporation limits in Ward No.1 North Zone, where the petitioner's property is situated, in order to fulfill the requirements of the general public residing within the said area, the Corporation themselves had already installed two bore wells and from the same more than 2000 peoples are

being benefited. In the said circumstances, these respondents received complaints from the general public regarding the attempt by the petitioner to sink a bore well in between the two existing bore-wells already installed by the Corporation. In fact, asper the Corporation rules while sinking a bore-well by a particular person within his premises, it is mandatory to see that there is a difference of minimum 100 meters between each of the same. Since the attempt made by the petitioner fell within the said 100 meters, the local public had objected for the same. Immediately the officials of these respondents inspected the said place and had observed that there was no due permission obtained by the petitioner for the sinking of the said bore well and further, it was attempted to be sunk within the said 100 meters difference and accordingly, the officials instructed the petitioner to stop her work. In fact the petitioner was instructed to apply for necessary

permission before these respondents and after due inspection and feasibility of the said application alone due permission will be granted. Concealing these aspects the petitioner had once more attempted to do the same during the night time which made the 2nd respondent to stop the same and also give a complaint against the petitioner before the Thudilyur Police Station. Instead of doing so, the petitioner has purposely submitted her representation to the other respondents and by not submitting to these respondents. Later, by concealing these all these true facts, have filed the above case before concealing these all these true facts, have filed the above case before this Hon'ble Court. In fact, the allegations that these respondents were instigated by third parties is not true but they have acted only in accordance with Law and as per its rules and regulations.

5. The learned Standing Counsel appearing on behalf of the Coimbatore Corporation submitted that permission for sinking a bore well is mandatory under the Tamil Nadu Municipalities (Regulation of Sinking of Wells and Safety Measures) Rules, 2015. The learned counsel submitted that the said rules are applicable to any bore well that is being digged even for domestic purpose. In order to substantiate the said submission, the learned counsel submitted that there are two existing bore wells already installed by the Corporation and there must be a difference of minimum 100 meters between each bore well. The learned counsel submitted that since the petitioner attempted to dig a bore well within the said 100 meters difference, a complaint was received by the Corporation. The learned counsel further submitted that in view of the recent incidents where children are caught in the open bore wells and lost their lives, the authorities are becoming more stringent in enforcing the rules to ensure that all safety measures are taken before permitting any one to dig bore wells.

6. In reply to the said submissions, the learned counsel

appearing for the petitioner submitted that insofar as the measures are concerned, the petitioner is willing to make the necessary application and get the permission for sinking a bore well.

7. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

8. The respondent corporation had only two objections insofar as permitting the petitioner to dig a bore well in her property :-

(a) The first objection is that the petitioner is trying to sink a bore well within 100 meters difference.

(b) The 2nd objection that was raised is that the petitioner will have to take necessary safety measures by applying under Form B and get a permission for sinking a bore well.

9. The learned counsel for the petitioner submitted that the petitioner will abide by the Safety measures that are directed to be taken by the respondents. The learned counsel further submitted that

the respondent must be directed to permit the petitioner to sink a bore well for her domestic purpose. The petitioner is aged about 80 years and therefore, she need not be made to run from Pillar to post for this purpose.

10. In view of the above discussion, this writ petition is disposed of with a direction to the petitioner to submit the necessary application / Form, before the 1st respondent and the 1st respondent shall consider the same and impose necessary conditions and thereafter permit the petitioner to dig a bore well in her property for domestic purpose. Necessary orders shall be passed by the 1st respondent in this regard, within a period two weeks from the date on which the 1st respondent receives the representation and the necessary forms from the petitioner. No costs.

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16.03.2020

Index: Yes / No

Internet : Yes /No

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To

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