

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.8555 of 2020
and W.M.P.No.10343 of 2020
(Heard Through VC)

P.Thisai kannu

..Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public Works Department,
Fort St.George, Secretariat, Chennai - 600 009.
2. The District Collector,
Cuddalore District, Cuddalore.
3. The Tahsildar,
Thittakudi Taluk,
Thittakudi, Cuddalore District.
4. The Commissioner/Block Development Officer,
Mangalore Panchayat Union,
Mangalore, Cuddalore District
5. The Joint Director,
Town and Country Planning,
Villupuram Region, Villupuram.
6. The Chief Engineer,
Water Resource Department (PWD),
Ground and Surface Water Resources, Data Centre,
Tharamani, Chennai 600 113.
7. The Executive Engineer,
Water Resources Organisation,
Public Works Department, Cuddalore,
Cuddalore District.
8. The Bureau of Indian Standards (BIS),
Southern Region Office,
Post Box No.8920, Campus IV Cross Road,
Tharamani, Chennai 600 113.

9. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Cuddalore, Cuddalore District.
10. The Assistant Executive Engineer,
TANGEDCO/TNEB, O & M,
Thittakudi - 606 106, Cuddalore District.
11. M/s. Aadhi Mineral Water Products Company,
rep by its Proprietor Murugsan,
S/o. Palanimuthu, Edaicheruvai Village,
Thittakudi Taluk, Cuddalore District

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 2 to 7 from allowing to operate granting any permission to the 11th respondent's illegal water unit situated in S.No.11/1A2, Edaicheruvai Village, Thittakudi Taluk, Cuddalore District and consequently direct the respondents 2 to 7 to take appropriate action against the illegal water unit of the 11th respondent situated in S.No.11/1A22, Edaicheruvai Village, Thittakudi Taluk, Cuddalore District.

For Petitioner : Mr.M.R.Jothimanian
For Respondents 1 to 7 : Mr.V.Shanmugasundar
Spl.Govt.Pleader
For Respondent-10 : Mr.Varunkumar
For Respondent-11 : Mr.L.G.Sahadevan for
Mr.E.Sathiyaraj

ORDER

The Writ Petition is filed for mandamus, forbearing the respondents 2 to 7 from allowing to operate and granting any permission to the 11th respondent's illegal water unit situated in S.No.11/1A2, Edaicheruvai Village, Thittakudi Taluk, Cuddalore District and consequently directing the respondents 2 to 7 to take appropriate action against the said illegal water unit of the 11th respondent.

2. The petitioner is an Agriculturist. In his neighbouring land, the eleventh respondent established a water unit for commercial purpose without obtaining necessary approval and permission from the authorities concerned. Fearing acute shortage of water for irrigation on account of the activities of the eleventh respondent, the petitioner made representations to the official respondents on various dates, lastly on 17.08.2019 in vain.

3. Even the petitioner has pointed out in the typed set of papers filed along with the Writ Petition, that, the 6th respondent, who is the Chief Engineer, Water Resource Department, Date Center, had rejected the application of the 11th respondent seeking for issuance of ground water clearance, on the ground that there is no required gap in between the two Wells. The said rejection order was passed in letter No.Voo.E8/Voo.pa2/Ko.5/2019 dated 12.11.2019.

4. The allegation of the petitioner is that, despite the order of rejection being passed, the 11th respondent-Company is continuing to do water packaging business. The petitioner has also given a complaint on 02.06.2020 in this regard before the Thittagudi Police Station. The petitioner also seems to have filed a civil suit in O.S.No.109 of 2018 on the file of the Additional District Munsif, Thittakudi for an injunction restraining the 11th respondent from putting up any construction. The petitioner has produced the photographs to show that, despite the permission rejected by the sixth respondent, the 11th respondent has been carrying on water packaging business. Therefore, the above Writ Petition is filed for forbearing the respondents 2 to 7 from allowing the 11th respondent to operate his water package units any further and also to take appropriate against them.

5. In response to the above Writ Petition, the 11th respondent-Company had filed its counter dated 02.11.2020, wherein, it is stated that the 11th respondent has made an application on 09.08.2019 to the sixth respondent, requesting the sixth respondent to issue a 'No objection Certificate' for taking ground water in the bore-well. However, the same was rejected on 30.10.2019, but, it is stated that the Block Development Officer had issued "No Objection Certificate" for drawing the ground water. The sixth respondent-Chief Engineer had not adverted to "No Objection Certificate" issued by the Block Development Officer, while rejecting the request of the 11th respondent for issuance of ground water clearance certificate.

6. In the meanwhile, a status-quo order was passed by this Court in this Writ Petition on 29.06.2020. The 11th respondent had also made an application on 24.07.2020 for grant of permission for drawing the ground water from the Well in the 11th respondent's patta land situated in other village at Vagaiyur, Thittagudi. Because of the pendency of the Writ Petition, it is stated that the sixth respondent is not taking up the representation/application for passing any orders. The 11th respondent, also in paragraph 12 of the counter affidavit, has stated that the 11th respondent-Company has given an undertaking before this Court that they

will run the water packaging unit after getting all the statutory requirements only.

7. Though the 11th respondent has given an undertaking as stated above, they have not specifically stated that they are not running the Unit as on date. Therefore, this Court is of the opinion that, unless and until the 11th respondent-Company obtains appropriate statutory permission for running the water packaging unit, they cannot run the same.

8. In the above context, it is for the respondents 2 to 7 who are the Regulatory Authorities, to grant any kind of permission for the nature of the business that is done by the 11th respondent and if any non-compliance or violation of the statutory rules, in particular, violation of G.O.Ms.No.142, Public Works Department, dated 23.07.2014, to take appropriate action against the erring individuals / companies.

9. With the above direction and observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

srn
To

1. The Principal Secretary to Government,
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Cuddalore District.

+1 CC to Mr. Varunkumar, Advocate sr 36900
+1 CC to Mr.E.Sathiyaraj, Advocate sr 36463.

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AD(CO)
SP(20/11/2020)

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