

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10769 of 2020 and
W.M.P.No.13086 of 2020

P.Krishnamoorthy

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Tirupur District 641 604.

2.The Commissioner and Executive Authority,
Tirupur City Municipal Corporation,
Tirupur District 641 604.

3.The Tahsildar,
O/o. The Tahsildar - North,
Tirupur District 641 601.

4.The Village Administrative Officer,
Village Administrative Officer,
Neruperichal, Pooluvatti Post,
Tirupur District 641 602.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the first respondent to take immediate action against the second respondent for unlawfully demolishing the canal to drain stagnated sewage water in the petition mentioned property based on the representation dated 11.11.2019 and consequently direct the second respondent to construct canals which was demolished by them.

For Petitioner : M/s.Sharmila for
Mr.S.Veeraraghavan

For Respondents: Mr.E.Balamurugan,
Special Government Pleader for R1, R3
& R4
Mr.Silambanan, Senior Counsel for
Mrs.Shanthi for R2

O R D E R

This writ petition has been filed for the issue of writ of Mandamus directing the first respondent to take action on the representation made by the petitioner on 11.11.2019 against the second respondent and further direct the second respondent to construct the channels alleged to have been demolished by the second respondent.

2.It is seen from the records that the petitioner had already filed a substantive suit against the second respondent in O.S.No.5 of 2020, before the District Munsif Court, Tirupur, wherein, the petitioner has claimed for the relief of Mandatory injunction and permanent injunction. It is also seen that the petitioner has filed an application in I.A.No.14 of 2020 for appointment of an Advocate Commissioner and the Advocate Commissioner has already inspected the property and filed a report before the concerned Court.

3.The petitioner has approached this Court seeking for a direction to take action against the second respondent on the ground that the second respondent has illegally demolished the channels and thereby, the stagnated sewage water has been let into the agricultural land belonging to the petitioner.

4.Heard M/s.Sharmila, learned counsel appearing on behalf of the petitioner and Mr.Silambanan, learned Senior Counsel appearing on behalf of the respondents.

5.In the considered view of this Court, the petitioner cannot be permitted to parallelly prosecute the same cause of action before two Forums. The petitioner has already filed a substantive suit before the concerned Court and an Advocate Commissioner's report has already been filed. If the petitioner requires for any urgent orders, the petitioner has to file an appropriate application before the concerned Civil Court where the suit is pending. The petitioner cannot parallelly come before this Court and seek for any interim order. This Court cannot exercise its jurisdiction under Article 226 of Constitution of India when already a substantive suit is pending before the Competent Civil Court. In view of the above, this Court is not inclined to entertain this writ petition. The petitioner is given liberty to approach the District Munsif Court, Tirupur and file an appropriate application and the learned District Munsif is directed to consider the application after hearing both sides and pass appropriate orders within a period of four weeks from the date of filing of the application. Except giving this liberty, no further orders can be passed by this Court in this writ petition.

6.This writ petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
O/o.The District Collector,
Tirupur District 641 604.
2. The Commissioner and Executive Authority,
Tirupur City Municipal Corporation,
Tirupur District 641 604.
3. The Tahsildar,
O/o. The Tahsildar - North,
Tirupur District 641 601.
4. The Village Administrative Officer,
Village Administrative Officer,
Neruperichal, Pooluvatti Post,
Tirupur District 641 602.
5. The Government Pleader,
High Court, Madras.

+lcc to Mr.S.Veeraraghavan, Advocate in Sr.27048, dt:19.8.2020

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W.M.P.No.13086 of 2020

MR (CO)
RV (8/09/2020)

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