

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

WP.No.17096/2020 & WMP.Nos.21163 & 21165/2020

R.Selvaraj

.. Petitioner

Versus

1.The District Collector,
Kallakurichi, Kallakurichi District.

2.The District Revenue Officer
Kallakurichi, Kallakurichi District.

3.The Sub Collector/Revenue Divisional Officer
O/o.The Sub Collector, Kallakurichi,
Pin 606 202, Kallakurichi District.

4.The Tahsildar
O/o.The Tahsildar
Chinna Salem, Kallakurichi District.

5.The Block Development Officer [BDO]
Office of BDO, Chinna Salem,
Kallakurichi District.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the impugned proceedings bearing No.Na.Ka.Aa2/1713/2020 dated 15.09.2020 on the file of the 3rd respondent the Sub Collector, Kallakurichi and quash the same.

For Petitioner : Mr.V.R.Appaswamee

For Respondents: Mr.M.Elumalai
Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

(1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2) Mr. M. Elumalai, learned Additional Government Pleader accepts notice on behalf of the respondents.

(3) The petitioner claims to be the owner of agricultural lands having an extent of 4.5 acres in Koogiyur Village and Post, Chinna Salem Taluk, Kallakurichi District. It is further stated by the petitioner that in the said holding, he is having a land admeasuring to an extent of 60 cents in S.No.186/1A, 2A & 3A with a well on the Southern side of Koogaiyur-Koundampalayam Road and also 3.5 acres of agricultural lands in S.No.156/7B and 142/4 on the Northern side of the road and the distance between the two lands is nearly 1 Km.

(4) According to the petitioner, the agricultural land having an extent of 3.5 acres in S.No.156/7B and 142/4 have no water source and the existing well got dried up and therefore, the father of the petitioner, during the year 1999, made a request to the Local Panchayat to implant PVC Pipeline by in between two agricultural lands along the road margin and accordingly, the Local Body has passed a Resolution on 04.10.1999 and in pursuant to the same, the 4th respondent had issued proceedings dated 19.06.2006, permitting the petitioner to continue to use the PVC Pipeline already laid beneath the road margin and the permission is valid upto 27.11.2021.

(5) The learned counsel for the petitioner would submit that the petitioner is drawing the water through the said pipeline purely for agricultural purposes and it is not commercially exploited and the said submission, on instructions, is placed on record.

(6) The learned counsel, by drawing the attention of this Court to the impugned order dated 15.09.2020 passed by the 3rd respondent, would submit that the 3rd respondent has erroneously reached the conclusion as if it is an encroachment, overlooking the fact that necessary permission has been accorded by the 4th respondent and the said permission is valid upto 27.11.2021 and in this regard, the petitioner has also submitted a detailed representation dated 28.10.2020 to respondents 1 to 3 and since attempts are being made to remove the pipeline and in that event, the concerned agricultural lands would remain waterless and thereby affecting the standing crops, prays for appropriate orders.

(7) Per contra, Mr. M. Elumalai, learned Additional Government Pleader appearing for the respondents would submit that the impugned order makes it clear that laying of the pipeline on the road margin amounts to encroachment and therefore,

action is initiated strictly in accordance with law.

(8) This Court has considered the rival submissions and also perused the materials placed before it.

(9) Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the claim projected by the petitioner, either in his representation or in this writ petition, directs the 3rd respondent to afford an opportunity of personal hearing to the petitioner and thereafter, consider and dispose of the petitioner's representation dated 28.10.2020 on merits and in accordance with law, by also taking into consideration, G.O.Ms.No.558, Revenue [Ni.Mu.2 [1]] Department, dated 11.06.1997 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner herein and till such time, the respondents 3 and 4 shall defer further decision in terms of the impugned notice dated 15.09.2020.

(10) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The District Collector,
Kallakurichi, Kallakurichi District.
- 2.The District Revenue Officer
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Kallakurichi District.

+1cc to Mr.V.R.Appaswamee, Advocate SR.38995

WP.No.17096/2020

SR II (CO)
CB(06/01/2021)



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