

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 05.02.2020

Orders Pronounced on : 14.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.Nos.30675, 30678 and 30679 of 2019

K.Shankaramoorthi

.. Petitioner in W.P.No.30675 of 2019

V.Arun Shankar

.. Petitioner in W.P.No.30678 of 2019

Uthami Kanthasamy

.. Petitioner in W.P.No.30679 of 2019

Vs.

1. The Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Fort St.George,
Secretariat, Chennai-600 009.

2. The District Collector,
District Collector's Office,
Erode,
Erode-638 011,
Erode District.

3. The Commissioner,
Gobichettipalayam Municipality,
Gobichettipalayam-638 452,
Erode District.

4. The Thasildar,
Gobi Taluk Office,
Gobichettipalayam-638 452,
Erode District.

5. The Block Development Officer,
BDO (Village Panchayat),
Gobichettipalayam-638 452,
Erode District.

6. The District Industries Centre,
Rep. by its General Manager,
Chennimalai Road,
Erode-638 001,
Erode District.

7. The Assistant Director of Town and
Country Planning,
Government of Tamil Nadu,
Kumaran Complex, 1st Floor,
Corporation Building,
Near Railway Station,
Tiruppur-641 601,
Tiruppur District.

8. R.Krishnamoorthy, S/o Ramasamy Gounder,
Proprietor of Sree Annai Pipes and Fittings,
Perumal Kovil Backside,
Kattupalayam Road, Kalingiyam Village,
Gobichettipalayam - 638 452, Erode District.

.. Respondents in all the Writ Petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writs of Mandamus to direct the respondent 2 to 5 to take legal actions against the illegal construction being put up by the eighth respondent in S/F.No.475/2 & 475/1 E, Kalingiam Village, Gobichettipalayam, Erode District and consider the petitioner's representation, dated 26.09.2019 to respondents within the stipulated time as prescribed by this Court.

For petitioners : Mr.P.Kalimuthu
For respondents : Mr.V.Shanmuga Sundar,
Spl.G.P. for RR-1 to 7
Mr.D.R.Arun Kumar for R-8

COMMON ORDER

R.SUBBIAH, J

Since the issue involved in all these Writ Petitions is one and the same, they are being disposed of by this common order. As the facts are almost same, it is enough to discuss the facts in W.P.No.30675 of 2019.

2. The petitioners have filed the above Writ Petitions praying for issuance of Writs of Mandamus to direct the respondent 2 to 5 to take legal actions against the illegal construction being put up by the eighth respondent in S/F.No.475/2 & 475/1 E, Kalingiam Village, Gobichettipalayam, Erode District and consider the petitioner's representation, dated 26.09.2019 to respondents within the stipulated time as prescribed by this Court.

3. The petitioner in W.P.No.30675 of 2019 is the purchaser of housing site "Nilaa Avenue" Site No.25, comprised in S.F.No.475/1B3 of Kalingiam Village, Gobichettipalayam, Erode District, within the limits of respondents by registered sale deed in his name in Reg.Doc.No.705, dated 27.03.2019 in Sub-Registrar Office, Gobichettipalayam. Nearby the abovesaid housing plot, one R.Krishnamoorthy (eighth respondent) had purchased agricultural lands of the above property. His property falls under the category of 'residential plot', but the eighth respondent's property falls under the category of 'agricultural land', wherein proposed industrial activities are highly prohibited due to high pollution and environmental prejudices, etc. But the eighth respondent who is an industrial entrepreneur, without obtaining the documents relating to the property, namely industrial licence, trade licence, factory licence, town and country planning approval, No Objection Certificate (NOC) from the officials of agricultural department at Erode District, building permissions, NOC from the District Environmental Engineer at Erode District (Tamil Nadu Pollution Control Board) and due permission from the Tamil Nadu Electricity Board authorities for high voltage EB service and certificate of Public Health, District Health Officer from Erode District., etc., has been proceeding with the illegal construction of the industrial factory in S.F.No.475/2 & 475/1E. As against the above said illegal construction of industrial building, the petitioner, along with local residents, gave oral complaint to the local Block Development Officer (BDO), Gobichettipalayam on 24.09.2019 for taking necessary action as against the above said fast coming plastic industrial unit. But the BDO under whose jurisdiction the above said industrial unit comes, had failed to adhere to the grievance of the petitioner and others relating to pollution problem, spoiling of ground water due to chemicals spread on the soils of agricultural lands, health hazard problems, environmental prejudices of agricultural lands and air and dust pollution etc. Apart from the above effects, the surrounding agricultural lands of village areas will be highly polluted and thereby the agricultural yields will be affected to the local residents and consequently, their life source will get spoiled. Since the above village area falls under agricultural belts, NOC has to be obtained from the concerned District Agricultural Officer at Erode, besides, there

has to be town and country planning permission obtained from the Town and Country Planning Department at Erode. Since no action has been taken by the respondents 1 to 7, the present Writ Petitions have been filed by the petitioners.

4. The respondents 2 and 4 have filed counter affidavit stating that the eighth respondent had purchased the property measuring an extent of 1.91-3/4 acres along with the cart track comprised in S.F.No.475/1,2 located at Kalingium Village, Gobichettipalayam Taluk, Erode District, by way of registered sale deed dated 05.12.2018, vide Doc.No.1215 of 2018 from one Thiru.V.Subramaniam. One Thiru.K.S.Suresh and Rathipriya had purchased the property measuring an extent of 1.90-3/4 acres in the very same aforesaid survey number from the same vendor on 13.06.2018, vide Document No.1214 of 2018. The action of the adjacent land owners forced the eighth respondent to file a suit in O.S.No.53 of 2019 on the file of the District Munsif Court, Gobichettipalayam for the relief of declaration and permanent injunction. The petitioner in W.P.No.30675 of 2019 is fourth defendant in the said suit. The said suit had been filed on 11.03.2019 for declaration of easementary right in S.F.No.475/1 and to grant permanent injunction against granting approval for converting land in S.F.No.475/1 into housing plots and to grant permanent injunction from granting approval to establish park and road in the said S.F.No.475/1. As a counter blast to the said suit, a public interest litigation was filed in April 2019 by one Thiru.K.Vishnu in W.P.No.11712 of 2019 before this Court for issuance of a Writ of Mandamus to direct respondents therein to seal the said factory of seventh respondent therein (eighth respondent herein). One of the contentions of writ petitioner in the said W.P. was that no approval was obtained from concerned Department and necessary certificates were also not obtained for running factory. The petitioner had made representations before concerned authorities. This Court, after hearing the contentions, had disposed of the said W.P. on 24.04.2019 directing District Environmental Engineer of Tamil Nadu Pollution Control Board (TNPCB), Covai Main Road, Olapallayam Road, Perundurai and Member Secretary of TNPCB to act promptly in accordance with pollution control laws as to whether the seventh respondent's unit therein could be allowed to function without any approval. The said exercise shall be done within a period of two weeks from the date of receipt of a copy of the order. It is open to the petitioner therein to furnish details to the respondents, if called for. Since the seventh respondent therein had not obtained the consent from the TNPCB, a closure order was issued on 03.07.2009 in pursuance of order of this Court. Eighth respondent herein made an application on 18.07.2019 for obtaining consent to operate the Unit. After complying all the conditions imposed by the TNPCB, consent to operate was issued by the TNPCB on 31.07.2019, which is valid till 31.03.2021. The

eighth respondent had obtained necessary permission from the concerned authorities.

5. The eighth respondent has also filed counter affidavit denying the averments of the petitioner. It is stated by him that he had obtained necessary permission from the concerned authorities.

6. In view of the above counter affidavits of the respondents 2, 4 and 8, we are of the opinion that there are enough documents to show that the eighth respondent had obtained necessary permission to run his factory. Further, already a Civil Suit in O.S.No.53 of 2019 is pending on the file of the District Munsif Court, Gobichettipalayam between the parties. This Court cannot conduct roving enquiry on the disputed questions of fact in these Writ Petitions under Article 226 of the Constitution of India. Since the said Civil Suit is pending, it is for the parties to work out their remedy only before the civil forum. Hence, these Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Fort St.George,
Secretariat, Chennai-600 009.

2. The District Collector,
District Collector's Office,
Erode,
Erode-638 011,
Erode District.

3. The Commissioner,
Gobichettipalayam Municipality,
Gobichettipalayam-638 452,
Erode District.

4. The Thasildar,
Gobi Taluk Office,
Gobichettipalayam-638 452,
Erode District.
5. The Block Development Officer,
BDO (Village Panchayat),
Gobichettipalayam-638 452,
Erode District.
6. The General Manager,
District Industries Centre,
Chennimalai Road,
Erode-638 001,
Erode District.
7. The Assistant Director of Town and
Country Planning,
Government of Tamil Nadu,
Kumaran Complex, 1st Floor,
Corporation Building,
Near Railway Station,
Tiruppur-641 601,
Tiruppur District.

+3cc to Mr.D.R.Arunkumar, Advocate, SR.No.12722.

NRJK(CO)
CSR: 12.03.2020

Common Order in
W.Ps.30675, 30678 & 30679 of 2019

सत्यमेव जयते

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