



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.NO.1095 OF 2018

K.Maniasaru

..Appellant

-VS-

1. The District Collector
Office of Collectorate
Thiruppur District
2. The District Revenue Officer
Thiruppur District, Thiruppur
3. The Revenue Divisional Officer
Udumalpet, Thiruppur District
4. The Tahsildar
Udumalpet Taluk
Udumalpet, Thiruppur District
5. The Superintendent of Police
Tiruppur District, Tiruppur
6. The Inspector of Police
Udumalpet Police Station
Udumalpet, Thiruppur District
7. T.Pachaiyappan

.. Respondents



Appeal filed under Clause 15 of the Letters Patent against the order dated 23.01.2018 made in W.P.No.11382 of 2017.

Prayer in W.P.No.11382 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order of the 2nd Respondent in Ni.Mu.11632/2015/A1 dated 27.08.2015 and quash the same.

For Appellant	::	Mr.N.Nithianandam
For Respondents	::	Mr.T.Arunkumar Government Advocate for R1 to R6
		Mr.C.Prakasam for R7/Caveator

JUDGMENT

(Judgment of the Court was made by T.RAJA, J.)

This writ appeal has been directed against the impugned order dated 23.01.2018 passed in Writ Petition No.11382 of 2017 and the writ petitioner is the appellant herein.

2. Learned counsel appearing for the appellant, assailing the impugned order passed by the learned single Judge, contended that when the appellant is a permanent resident of Kurincheri Village in Udumalpet Taluk, Tiruppur District carrying on his agricultural activities to eke out his living, when there are no special irrigation facilities or PAP facilities for the villages like Kurincherry, Eripalayam, Chinnaveerampatty, Pookulam, Ponneri and Sundakkampalayam in Tiruppur District, the rain water running through Raja Vaikkal and the waters of seven ponds situated in the said villages have been the only source of water for the wells and water bodies situate in and around the vicinity and this is also the only source of water for thousands of small farmers in his village, some politicians have stealthily, with the connivance of the respondents 1 to 4, taken steps to take the groundwater from the villages mentioned above through pipelines to their lands situated far away with a



business motive. The seventh respondent herein also applied to the District Revenue Officer, Tiruppur, the second respondent herein on 23.1.2015 seeking permission to take water from the land in Chinnaveerampatty, after purchasing the said land in the year 2014, to his lands situated at Kottamangalam Village. Although objections were made by the general public not to allow the seventh respondent to take water, without considering the objections, the respondents appeared to have given permission to the seventh respondent to take water for irrigation of his own lands by laying underground pipelines through these villages. After enquiry, when the appellant came to know that there was an order dated 27.8.2015 in favour of the seventh respondent allowing him to take water from the appellant's village to his village, this was questioned before the learned single Judge, among other reasons, citing that without conducting any enquiry in accordance with law and without even receiving any objections from the affected parties, the impugned order has been passed, therefore, the same is liable to be interfered with, it was not considered. When the second respondent has caused huge damage to the groundwater in the appellant's village by allowing the seventh respondent to extract water, the impugned order passed by the second respondent is unsustainable in law. But the learned single Judge has not considered the objections raised by the appellant and his villagers.

3. Contending further, learned counsel appearing for the appellant has stated that the Advocate Commissioner appointed by this Court to find out the pros and cons of taking water from the appellant's village to the seventh respondent's village through underground pipeline, has also filed his detailed report, however, that report was also heavily objected. But the learned single Judge has brushed aside the objections of the appellant. As the reasons assigned through the objections filed to the report of the Advocate Commissioner have not weighed with the learned single Judge, which has caused huge prejudice to the appellant and his villagers, the impugned order is liable to be interfered with. Concluding his arguments, he has contended that the learned single Judge has proceeded as if there was no objection from the village people with regard to the laying of pipelines by the seventh respondent. On the contrary, there were objections raised by several persons, therefore, the finding given by the learned single Judge dismissing the writ petition is liable to be set aside.



4. In reply, supporting the reasons given in the impugned order and also the finding given by the learned single Judge, learned Government Advocate appearing for the respondents 1 to 6 submitted that if the argument advanced by the learned counsel appearing for the appellant that the seventh respondent cannot be permitted to take water from the appellant's village, for the simple reason that the appellant's village will be facing scarcity of water, is accepted, then, tomorrow, the very same appellant, in the event of facing scarcity of water in his village, will not be able to take water from the neighbouring village, as the appellant has miserably forgotten to appreciate the philosophy of give and take. Today, if the water available in the appellant's village is allowed to be taken by the seventh respondent for cultivating the land belonging to him, tomorrow, the agricultural produce going to be harvested by the seventh respondent from his land is not going to be consumed by the seventh respondent alone, but it is going to be used by all the citizens. Therefore, when the groundwater available in one village is allowed to be taken for the use of the same villagers or the neighbouring villagers, that cannot be made as an issue or subject matter of lis, because the second respondent, after appreciating the case of the seventh respondent that his lands situated in the neighbouring village could not be utilized for any agricultural purpose due to the failure of monsoon, thought it fit to impose multiple conditions, while passing the order impugned in the writ petition, making it clear that breach of any one of the conditions would result in the cancellation of the permission granted to him. Therefore, the second respondent and other official respondents are aware of the conditions and they are also following upon the matter and as and when any breach takes place to anyone of the conditions, they would take appropriate action. Hence, no interference is called for with the impugned order, he pleaded.

5. Having heard both sides, considering the reasons assigned by the learned single Judge, on perusal of the report filed by the Advocate Commissioner, we are not able to find any space to interfere with the impugned order, as we are also in agreement with the finding of the learned single Judge holding that there is no error in the order passed by the second respondent allowing the seventh respondent to complete the pipe laying work which was in progress with necessary police



protection of the jurisdictional police. Yet another argument advanced by the learned counsel appearing for the appellant that there was heavy objection by the public, has also been rightly examined by the learned single Judge holding that the objections raised in this regard were only by the appellant, whereas there was no objection by the general public with regard to the permission granted to the seventh respondent to draw water from his lands in Survey No.347/A2 to his lands at Kottamangalam Village. Therefore, finding no merits whatsoever, the writ appeal fails and it is dismissed. Consequently, C.M.P.No.8993 of 2018 is also dismissed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

SS

To

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2. The District Revenue Officer
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6. The Inspector of Police
Udumalpet Police Station
Udumalpet, Thiruppur District.



+1cc to Mr.N.Nithianandam, Advocate, S.R.No.44024

+1cc to the Government Pleader, S.R.No.44268

W.A.No.1095 of 2018

PA(CO)
RLP(23/09/2021)