



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

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WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.4881 of 2021

1. P.Namachivayam
2. R.Palanisamy Gounder ... Petitioners

vs.

1. The Sub Collector,
Pollachi Revenue Divisional/
Executive Magistrate,
Pollachi, Coimbatore District.
2. The Tahsildar,
Pollachi Taluk, Pollachi,
Coimbatore District.
3. The Executive Engineer,
Water Resources Department,
Public Works Department,
Aliyar Basin Division,
Parambikulam Aliyar Project,
Makkinampatti, Pollachi,
Coimbatore District.
4. S.Jayaprakash ... Respondents

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 passed by the 1st Respondent in his proceedings Na.Ka.No.704/2019/A2, dated 23.01.2021 and quash the same.

For Petitioners : Mr.C.Prakasam
For Respondents 1 to 3 : Ms.C.Sangamithirai,
Special Government Pleader

For 4th Respondent : Mr.P.Jagadeesan

O R D E R

Petitioners have come up with this Writ Petition seeking to quash the impugned order dated 23.01.2021 passed by the 1st Respondent vide proceedings Na.Ka.No.704/2019/A2.



2. According to the Petitioners, the 1st Petitioner owns patta agricultural lands situated in S.Nos.71/A2, 71/B to an extent of 2.20 acres and the 2nd Petitioner owns patta land in S.No.72/2A to an extent of 0.75 acres. The said lands are registered Ayacut lands under Parambikulam-Aliyar Irrigation Project Scheme and they are getting canal water through Devambadivalasu Distributory 11 Right Sub Canal 1st Right Sluice at left vent for the past 30 years without any interference, through the lands belonging to one Palaniyammal, Velusamy, 4th Respondent herein and his brother viz. Rajagopal.

3. The case of the Petitioners is that, the 4th Respondent herein is preventing the free flow of water through the said Sluice to their land. Hence, the Petitioners made a written representation to the P.W.D. Officials, who made spot inspection of their land. The same was reported to the Tahsildar, Pollachi, the 2nd Respondent herein, who, vide proceedings in Ni.Mu.No.1355/2019/B2, dated 30.04.2019, directed the Police to register a case against the 4th Respondent herein. Even after the said proceedings, the 4th Respondent prevented free flow of water to the Petitioners' land. Hence, the Petitioners made a written representation to the Police seeking police protection for getting uninterrupted water supply to their lands and to take appropriate action against the 4th Respondent by implementing the said order of the 2nd Respondent.

4. It is the allegation of the Petitioners that, as the 4th Respondent is a politically influential person, no action was taken against him. Hence, Petitioners filed W.P.No.14788 of 2019 in respect of their grievance, and this Court, by an order dated 22.05.2019, directed the official Respondents therein to take appropriate action against the 4th Respondent herein. In spite of the order of this Court, the 1st Respondent/Revenue Divisional Officer passed the impugned order dated 23.01.2021, setting aside the order passed by the Tahsildar, Pollachi. Aggrieved by the same, Petitioners have come up with the present Writ Petition.

5. Learned counsel for the Petitioners contended that, 1st Respondent/Revenue Divisional Officer, without considering the fact that, the 4th Respondent herein has disobeyed the order of this Court, has set aside the order passed by the Tahsildar, Pollachi, which is nonest in the eye of law.

6. On the other hand, learned counsel appearing for the 4th Respondent submitted that, the order passed by the Tahsildar, Pollachi is an ex parte order without giving an opportunity of hearing to the 4th Respondent herein and hence, he prayed for upholding the order passed by the 1st Respondent/Revenue Divisional Officer, as the same is a well considered one.



7. Admittedly, there is a dispute between the Petitioners and the 4th Respondent herein as regards free flow of water to the Petitioners' lands. The Tahsildar, Pollachi has conducted spot inspection of the Petitioners' lands and by an order dated 30.04.2019, directed the Police to register a case against the 4th Respondent herein, if he prevents free flow of water to the Petitioners' lands. But, the 1st Respondent has set aside the said order passed by the Tahsildar. Though, this Court has passed an order dated 22.05.2019 in W.P.No.14788 of 2019, based on the Report of the Tahsildar, Pollachi, it is seen that, the 1st Respondent has passed the impugned order after hearing the Petitioner and the 4th Respondent. Further, as against the impugned order passed by the 1st Respondent, there is an efficacious Appeal remedy available to the Petitioners before the Commissioner of Land Administration.

8. In view of the above, Petitioners are at liberty to approach the Commissioner of Land Administration by way of an Appeal challenging the impugned order passed by the 1st Respondent herein. On filing of such Appeal by the Petitioners, the Commissioner of Land Administration shall consider the same in accordance with law, after giving an opportunity of personal hearing to the Petitioners and the 4th Respondent herein and pass appropriate orders, as expeditiously as possible.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.No.5493 of 2021 and W.M.P.No.14706 of 2021 are closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

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Pollachi Revenue Divisional/
Executive Magistrate, Pollachi, Coimbatore District.
2. The Tahsildar,
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3. The Executive Engineer,
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Makkinampatti, Pollachi, Coimbatore District.

+1 cc to Government Pleader Sr.NO. 64396 (06.01.2022)

W.P.No.4881 of 2021

SJ(CO)

A.SK(17.12.2021)