



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 8593 of 2020

and

W.M.P. No. 10385 of 2020

V. Radha

.. Petitioner

Versus

1. The Secretary to Government
Department of Agriculture
Chief Secretariat, Pondicherry
2. The Deputy Collector (Revenue)
Villianur, Pondicherry
3. The Commissioner
Mannadipet Commune Panchayat
Pondicherry
4. The Member-Secretary
Pondicherry Ground Water Authority
Karamanikuppam, Muthaliyarpet
Pondicherry
5. The Assistant Engineer
Rural Water Supply Sub-Division
Public Health Division PWD
Pondicherry - 5

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents not to sink a replacement tube well in R.S.No.98 in Chettipet Village, Mannadipet Commune, Villianur Taluk, Pondicherry in pursuant to the orders passed by the fourth respondent dated 15.05.2020 and the same is against G.O. Ms. No.



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30, dated 02.02.2005 and further direct the respondent to find an alternate and suitable place duly following the regulations notified in G.O.Ms. No 30 dated 02.02.2005 for sinking replacement tube well in Chettipet Village

For Petitioner : Mr. B. Balavijayan

For Respondents : M/s. Mala
Government Pleader (Pondicherry)

O R D E R

The present writ petition has been filed seeking a direction to the respondents not to sink a replacement tube well in R.S. No. 98 in Chettipet Village, Mannadipet Commune, Villianur Taluk, Pondicherry in pursuant to the orders passed by the fourth respondent dated 15.05.2020 and the same is against G.O. Ms. No. 30, dated 02.02.2005 and further direct the respondent to find an alternate and suitable place duly following the regulations notified in G.O.Ms. No 30 dated 02.02.2005 for sinking replacement tube well in Chettipet Village.

2. The petitioner is the owner of the land situated in Survey No.99/1, measuring to an extent of 07 acres in Chettipet Village, Pondicherry and she is doing agriculture in the said land for decades. For the purpose of irrigation, she erected Tube Well in her land by obtaining necessary permission from the third respondent. Whilesso, the respondents after making survey and study, have proposed for sinking a replacement tube well in Survey No.98 which is just 45 metres from the petitioner's existing tube well, for which, there was serious objection raised by the whole villagers and more particularly, the petitioner would lose her existing tube well erected in the land at S.No.99/1.

3. It is further averred by the petitioner that the 5th respondent has also sought permission from the fourth respondent for sinking a replacement tube well in R.S.No.98, for which, the fourth respondent declined to grant the same vide his order dated 15.5.2020, on the ground that there are two pumping tube wells located at a distance of 20 metres and 51 metres from the proposed erection and besides that, the proposed erection of replacement tube well would affect the tube well already



erected for agricultural activities and the same would definitely affect the livelihood of the farmers and thereby directed the fifth respondent to find an alternate site for the said proposal.

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4. According to the petitioner, as per G.O.Ms.No.30 dated 2.2.2005 issued by the Government of Pondicherry, no tube well shall be erected within 150 meters from any existing tube well, but the act of the authorities choosing a place in S.No.98 for sinking a tube well within a range of 45 metres from her existing tube well is totally against GO Ms.30 and violating the order of the fourth respondent dated 15.5.2020.

5. It is the grievance of the petitioner that now the 5th respondent is proceeding to sink the tube well in S.No.98, despite objections and against law, which act of the authority will ruin the agricultural activity of the petitioner. Having regard to the same, she filed a detailed representation to the authorities concerned on 22.6.2020. Finding no response, the petitioner has filed the present writ petition for the aforesaid relief.

6. Heard both sides and perused the materials available on record.

7. On 29.6.2020, when the matter was taken up for hearing, this Court, based on the submissions of the learned counsel appearing for either side, granted an order of statusquo to be maintained for a period of two weeks and on 28.7.2020, the said order was extended until further orders.

8. Today, when the matter was called, the learned Government Pleader, Puducherry appearing for the respondents filed a report of the Pondicherry Ground Water Authority, Puducherry regarding Ground water Potential/Availability at Chettipet Village, wherein, it has been stated as follows;

' It is pertinent to state that at present, the Mannadipet Commune Panchayat is supplying drinking water to the local people, through 3 tubewells only, whereas 18 tubewells are being utilized to extract ground water by the farmers of that area for agriculture activities. Before granting permit to the tubewell in question, Pondicherry Ground Water



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Authority (PGWA) has requested the PWD officials to choose alternate site for sinking new tubewell. Since, the PWD officials have informed to PGWA that no Government land is available at location (A) & (B), permit was granted by PGWA to PWD for sinking a new tubewell at the site in question, considering the decision taken by the local people in Grama Sabha Meeting and as well as the request of the PWD Authorities, so as to enable them to supply drinking water in that area.'

9. As per the report filed by the Member Secretary, Ground Water Authority, Puducherry, there is no impediment for the authorities as well as the interested parties to have the facilities of bore well for the supply of drinking water to the needy people as well as for agricultural operations.

10. In the light of the above, recording the report filed by the learned Government Pleader, Puducherry, this Writ Petition stands disposed of. No costs. The connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

msr

To

1. The Secretary to Government
Department of Agriculture
Chief Secretariat, Pondicherry
2. The Deputy Collector (Revenue)
Villianur, Pondicherry
3. The Commissioner
Mannadipet Commune Panchayat
Pondicherry



4. The Member-Secretary
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Pondicherry

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5. The Assistant Engineer
Rural Water Supply Sub-Division
Public Health Division PWD
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+1cc to M/s.B.Balavijayan, Advocate, S.R.No.43479

+1cc to the Government Pleader, S.R.No.43709

W.P. No. 8593 of 2020
and
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KSM(CO)
SB(27/09/2021)