



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.P. (MD) No.4599 of 2021
and
W.M.P (MD) .Nos.3691 and 3693 of 2021

1. R.Balavinayagam
2. K.Prakash

.. Petitioners

Vs

1. The Chief Engineer/State
Ground and Surface Water Resources
Date Centre,
Tharamani, Chennai.
2. The Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
G.S.T.Road, Guindy,
Chennai - 600 025.
3. The District Collector,
Pudukottai District,
Pudukottai.
4. The District Chief Engineer,
Tamil Nadu Pollution Control Board,
SIPCOT, Pudukottai.
5. The Assistant Engineer,
South Vellaru Basin,
Public Works Department (Water
Resources Organization),
Aranthangi,
Pudukottai District.
6. The Assistant Engineer,
TANGEDCO,
Aranthangi, Pudukottai District.



7. The Block Development Officer,
Aranthangi Panchayat Union,
Aranthangi, Pudukottai District.

8. The Block Development Officer,
Arimalam Panchayat Union,
Thirumayam Taluk, Pudukottai District.

9. The President,
Kammankadu Village Panchayat,
Kammankadu Post,
Aranthangi Taluk,
Pudukottai District.

10. The President,
Valaramanickam Village Panchayat,
Valaramanickam Post,
Thirumayam Taluk,
Pudukottai District.

11. Rengasamy ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus directing the respondents 1 to 10 to close the 11th respondent's water drawing unit situate in S.F.No.78/8 of Kurichi Village, Thirumayam Taluk, Pudukottai District and remove the encroachment made by the 11th respondent in a portion of S.F.25 of Kothankudi Kanmai, Kurichi Village, Thirumayam Taluk, Pudukottai District and restore the same.

For Petitioner : Mr.K.Baalasundharam

For respondents : Mr.A.K.Manickam,
Standing Counsel for Government
for R1, R3, R5, R7 and R8
Mr.S.Bageerathan for R2 and R4
Mrs.S.Srimathy, for R6
No Appearance for R9 and R10
Mr.Swarnavel, for R11

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Baalasundharam, learned counsel appearing for the petitioner; Mr.A.K.Manickam, learned Government Counsel appearing for the respondents 1,3,5,7 and 8; Mr.S.Bageerathan, learned counsel appearing for the respondents 2 and 4 and Mr.Swarnavel, learned Government Counsel, appearing for the eleventh respondent.



2. The petitioner by way of this public interest litigation sought for a direction upon the official respondents to direct the respondents 1 to 10, to close the eleventh respondent's water plant and also to remove the encroachment made by the eleventh respondent in S.F.No.78/8 of Kurichi Village, Thirumayam Taluk, Pudukottai District. After hearing the learned counsel for the parties, on 23.06.2021, this Court passed the following order :

"Heard Mr.K.Baalasundharam, learned counsel for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Respondent Nos.1,3,5,7 and 8, Mr.S.Bageerathan, learned Standing Counsel for Respondent Nos.2 and 4, Mrs.S.Srimathy, learned Standing Counsel for 6th Respondent and Mr.D.Ramesh Kumar, learned counsel for the 11th respondent.

2.Though private notice has been served on respondent Nos.9 to 11, except 11th respondent, none of them entered appearance either in person or through counsel. The Pollution Control Board has not given instruction to the learned Standing Counsel and he has also not received copy of the affidavit and typed set of papers. Similar is the submission of the learned Standing Counsel for the Government.

3.In any event, over exploitation of the ground water for commercial use cannot be permitted. This Court has taken serious note of it. After filing of counter affidavit by the respondents, this Court will examine as to whether the private respondents are lawfully taking ground water. If the private respondents satisfy this Court that the operations are lawful, then the Writ Petition has to be dismissed. Till then, the private respondent should not operate the water plant.

4.Accordingly, respondent Nos.4 and 7 to 8 are directed to stop all the operations of the 11th respondent water plant and the 11th respondent is directed to file counter affidavit with supporting document to justify the running of his water plant. The 6th respondent TANGEDCO is also directed to temporarily disconnect the electricity supply.

List the matter on 30.06.2021."

3. Pursuant to that, today, the learned Standing Counsel appearing for the respondent-Pollution Control Board reports that no permission has been obtained by the eleventh respondent for running a water drawing unit or water plant and therefore, the unit has been inspected and based on the request made by the officials, the



electricity board has disconnected the electricity supply. There is further allegation that the eleventh respondent has encroached into a kanmoy. This has to be dealt with by the revenue officials namely, the respondents 7 and 8.

4. Mr.R.Swarnavel, learned counsel who has accepted the notice on behalf of the eleventh respondent submitted that the eleventh respondent is yet to undertake any industrial activities and he is not running any water plant and construction alone is going on and the photographs which have been annexed in the typed set of papers is a fish farm and he does not have any written instruction from his client as to whether any approval has been obtained from the relevant Authorities.

5. Further it is submitted that the writ petition is a private interest litigation, as the second respondent is a close relative of the eleventh respondent and there are other disputes among themselves.

6. Be that as it may, even without any complaint from any third party, the Pollution Control Board and the Revenue Department officials have to ensure that no water plant is established or made functional without approval. It is also necessary for the Authorities to examine as to whether any building plan approval has been obtained by the eleventh respondent either for the proposed water plant or for the fish farm.

7. Therefore, we direct that no activity of running the water plant can be carried on by the eleventh respondent, without obtaining appropriate permission and approval from the Authorities and if any such application is filed, then the objections in the local public should also to be considered.

8. So far as the allegation of encroachment into the waterbody is concerned, the respondents 7 and 8 are directed to conduct an inspection of the area in question, after issuing notice to the eleventh respondent and the petitioner and take action in accordance with law. The electricity supply shall stand remain disconnected, unless and until appropriate permission is obtained from the Pollution Control Board and other Authorities.

9. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

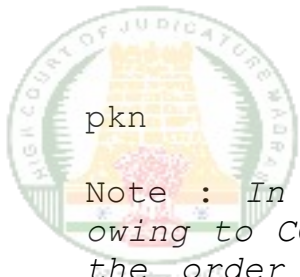
Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

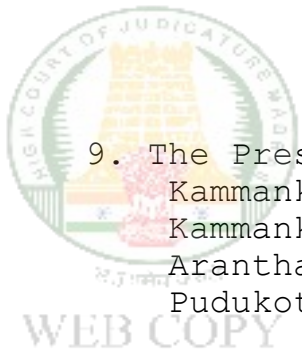


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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

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SE (CO)
TR (07.07.2021) 6P 11C