



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Second day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mrs.Justice S.ANANTHI

WMP(MD) No.16310 of 2020
IN
WP(MD) No.19590 of 2020

M/S.VILLAGE DRINKING WATER AND HEALTH SOCIETY,
REPRESENTED BY ITS TREASURER P.MANI

... PETITIONER/PETITIONER

Vs

- 1 THE DISTRICTCOLLECTOR,
KARUR DISTRICT.
- 2 THE DISTRICT REVENUE OFFICER,
KARUR DISTRICT.
- 3 THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
WRO, GROUND WATER DIVISION,
TRICHY.

4 S.SHANTHI

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an order of Interim Stay of the impugned order passed by the 1st Respondent in Na.ka.G1/11855/2020 dated 18/11/2020, pending disposal of this Writ Petition.

Prayer in WP(MD). 19590/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue an order or orders or directions or writs in the nature of certiorari calling for the records relating to the impugned order passed by the 1st respondent in Na.Ka.G1/11855/2020 dated 18/11/2020 and quash the same as illegal, arbitrary and without jurisdiction.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and <https://hscpc.econline.gov.in/mcservices/> the arguments of Mr.K.SURESH, Advocate for the



petitioner and of Mr.K.CEHLAPANDIAN, Additional Advocate General assisted by Mrs.J.PADMAVATHI DEVI, Special Government Pleader for the respondents 1 to 3 and Mr.AR.L.SUNDARESAN, Senior Counsel for Mr.I.VELPRADEEP, Advocate for the 4th Respondent, the court made the following order:-

WEB COPY (Order of the Court was made by M.M.SUNDRESH, J.)

Heard the learned counsel for the petitioner, the learned Additional Advocate General for the official respondents and the learned Senior counsel for the respondent No.4.

2.We have perused the records including the vacate stay petition.

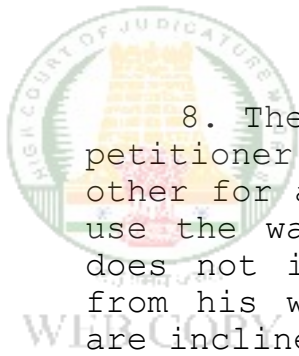
3. This petition has been filed primarily on the ground that there is no powers of review available with the respondent No.2 in the writ petition, after making earlier decision. Secondly, it is submitted that the earlier decision made by taking into consideration of the relevant materials and therefore, without finding fault with the same, the subsequent impugned order has been passed. Therefore, on the question of non application of mind also, the order is challenged.

4.The learned counsel appearing for the petitioner submitted that the drinking water, which the petitioner is concerned, a pipeline is sought to be taken 16 metres away for the alleged irrigation purpose.

5. The learned Senior counsel appearing for the 4th respondent and the learned Additional Advocate General submitted that subsequently a review was done with all the officials and thereafter, a decision was taken that too in pursuant to the orders of this Court. There is no prohibition with respect to the taking of water and therefore, there is no need for getting No Objection Certificate.

6. By way of reply, the learned counsel appearing for the petitioner submitted that the impugned order has been passed not in pursuant to the orders of this Court, but it was available while passing the earlier order. It is also submitted by the learned counsel for the petitioner that the review has been done within a month's time from the passing of the earlier order by a different officer.

7.There are continuous issues involved in the writ petition, which can be decided only at the time of final hearing of the writ petition. Prima facie, we are of the view that interim order has to be extended. The question of consideration is on the powers available to the respondent No.2 and the manner in which it is



8. There are two competing interest before us. One is that the petitioner wants the water to be used for drinking purpose and the other for agricultural purpose. The private respondent is trying to use the water to raise standing trees and therefore, prima facie, does not involve crops. It is sought to be taken 16 meters away from his well by laying pipeline. Thus, considering the above, we are inclined to make the interim order absolute.

9. We will make it clear that our observations are prima facie in nature. Therefore, the issues will be decided on merits at the time of final hearing.

10. Post the writ petition for hearing on 06.04.2021.

sd/-
02/02/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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

- 1 THE DISTRICTCOLLECTOR,
KARUR DISTRICT.
- 2 THE DISTRICT REVENUE OFFICER,
KARUR DISTRICT.
- 3 THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
WRO, GROUND WATER DIVISION,
TRICHY.

ORDER
IN
WMP(MD) No.16310 of 2020
IN
WP(MD) No.19590 of 2020
Date :02/02/2021

RR
JM/VR/SAR III/08.02.2021/3P/4C

<https://hcservices.ecourts.gov.in/hcservices/>