

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.A.NO.2864 OF 2021

&

W.P.NO.26680 OF 2021

W.A.No.2864 of 2021

P.Velumani

.. Appellant/
4th Respondent

Vs.

1. Thangavel
2. Andamuthu
3. Sellappan
4. Eswaran
5. Murugesan
6. Rani

... Respondents/ 1 to 6 Respondents

7. The District Collector
Erode District, Erode.
8. The Revenue Divisional Officer
Gobichettipalayam
Erode District.
9. The Tahsildar
Gobichettipalayam
Erode District.

.. Respondents/
1 to 3 Respondents

W.P.No.26680 of 2021

1. R.Janaki
2. E.Periyasamy
3. V.Karuppusamy
4. Thavamani

.. Petitioners

Vs.

1. The District Collector
Erode District, Erode 638 011.
 2. The Revenue Divisional Officer
Gobichettipalayam
Erode District.
 3. The Revenue Tahsildar
Gobichettipalayam Taluk
Erode District.
 4. The Block Development Officer
Thookanaickenpalayam Panchayat Union
Gobichettipalayam Taluk
Erode District.
 5. The Inspector of Police
Bangalapudur Police Station
Erode District.
 6. The Executive Engineer
Public Works Department/
Water Resources Organisation
Bhavani Sagar Dam Division
Bhavani Sagar, Erode Distrit.
 7. The Tamil Nadu State Bhoodan Yagna Board
Directorate of Land Reforms
Ezhilagam, Chepauk
Chennai 600 005.
 8. The District Forest Officer
Sathyamangalam Division
Gobi Road
Sathyamangalam 638 402
Erode District.
 9. Thangavel
 10. Andamuthu
 11. Sellappan
 12. Eswaran
 13. Murugesan
 14. Rani
- .. Respondents

Prayer:

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.08.2020 made in W.P.No.30299 of 2019.

Prayer in W.P.No.30299 of 2019:

Writ of Certiorari calling for the records pertaining to the impugned order dated 27.09.2019 vide Na.Ka.No. 5936/2019/A1 passed by the 1st respondent confirming the order of the 2nd respondent dated 21.02.2019 vide Na.Ka.No. 1061/2019/A1 and quash the same.

Prayer in W.P.No.26680 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records relating to the impugned order dated 11.05.2018 made in Na.Ka.No.4133/2018/A4 passed by the third respondent and quash the same.

For the Appellant & : Mr.Manokaran
Petitioners

For the Respondents : Mr.D.R.Arunkumar
for R1 to R6 (in W.A.)

Mr.P.Muthukumar
State Government Pleader
for R7 to R9 (in W.A.) &
for R1 to R8 (in W.P.)

COMMON JUDGMENT
(Delivered by the Hon'ble Chief Justice)

The writ appeal has been preferred against the order dated 19.08.2020 wherein the order cancelling the permission for laying underground pipelines and the order confirming the same were quashed.

2. It is a case where the ninth respondent granted permission to the non-appellants 1 to 6 to lay underground pipelines from their common well to their respective agricultural lands. When the process of laying the pipelines started, an order was passed by the eighth respondent cancelling the permission to lay the pipeline in view of the law and order problem. Against the said order, non-appellants 1 to 6 preferred an appeal before the seventh respondent, who confirmed the order of the eighth respondent cancelling the permission to lay underground pipeline. The said orders were the subject matter of the writ petition. The learned Single Judge, by the impugned order, allowed the writ petition and quashed the orders of the

eighth and ninth respondent.

3. The challenge to the order of the learned Single Judge was made by the appellants and simultaneously, by one more person who was not a party to the litigation. The writ appeal bearing SR No.111753 of 2021 preferred by the person who was not a party to the litigation was dismissed by this Court by order dated 20.01.2022 wherein the following observation has been made in paragraph 3 and the same is quoted below.

"3. Having heard learned advocate for the petitioner and having considered the material on record, this Court finds that the original writ petitioners had approached this Court invoking Article 226 of the Constitution of India challenging the cancellation of the permission granted to them for laying down pipeline for irrigation purpose. The said permission was cancelled by the authorities on the sole ground that it may create law and order situation. Learned Single Judge, after hearing the writ petitioners and State Authorities found that the permission to lay down pipeline for irrigation purpose, if otherwise it was in accordance with law, could not have been cancelled merely on the ground that laying down of pipeline will create law and order situation. We find that grant of relief to the writ petitioner can not be dependent on the wish of other persons like the present petitioner. Leave as prayed for therefore need not be granted."

4. The Coordinate Division Bench made a further comment on the conduct of the writ appellant therein in filing the appeal, without filing an application for impleadment before the learned Single Judge. Therefore, paragraph 4 would not apply to this case. But, the observations made in paragraph 3 of the order touches the issue on hand and decided it and therefore, we cannot re-open the matter in the present appeal. It is more so when the appellants could not show as to how they are going to be affected as the pipeline would not be laid on the land belonging to them. If anyone could have objection, it would be the land owner in whose land the pipeline is likely to pass through.

5. We find no reason to pass an order against the judgment of the Coordinate Bench where the very same order was upheld and accordingly, the appeal is dismissed. There will be no order as to costs. Consequently, CMP No.19148 of 2021 is also dismissed.

6. As regards the connected writ petition listed along with this appeal, learned counsel for the petitioners submits that

the writ petition has become infructuous because it was filed against the grant of permission to lay pipeline which got subsequently cancelled and the said cancellation was the subject matter of W.P.No.30299 of 2019 which was decided by order dated 19.08.2020 and the appeal against the said order has now been dismissed.

7. In view of the above, the writ petition is dismissed as rendered infructuous. There will be no order as to costs. WMP Nos.28124 to 28126 of 2021 are also dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The District Collector
Erode District, Erode 638 011.
2. The Revenue Divisional Officer
Gobichettipalayam
Erode District.
3. The Revenue Tahsildar
Gobichettipalayam Taluk
Erode District.
4. The Block Development Officer
Thookanaickenpalayam Panchayat Union
Gobichettipalayam Taluk
Erode District.
5. The Inspector of Police
Bangalapudur Police Station
Erode District.
6. The Executive Engineer
Public Works Department/
Water Resources Organisation
Bhavani Sagar Dam Division
Bhavani Sagar, Erode Distrit.

7. The Tamil Nadu State Bhoodan Yagna Board
Directorate of Land Reforms
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Chennai 600 005.
8. The District Forest Officer
Sathyamangalam Division
Gobi Road, Sathyamangalam 638 402
Erode District.

+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No.40027
+2ccs to Mr.Manokaran, Advocate, S.R.No.39986, 39985
+1cc to the Government Pleader, S.R.No.40344, 40345

W.A.No.2864 of 2021 &
W.P.No.26680 of 2021

CA(CO)
PM/11/07/2022