



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.3441 of 2022

and

W.M.P. (MD)No.3011 of 2022

WEB COPY

V.Kuyilan

... Petitioner

vs.

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai - 600 009.

2.The District Collector (cum) The Inspector of
Panchayat, Theni, Theni District.

3.The Executive Engineer,
The Tamil Nadu Water Supply and Drainage
Board (TWAD),
No.33, Gandhiji Main Road, NRT Nagar,
Allinagaram, Theni - 625 531.

4.The President,
Kothapatty Village Panchayat,
Kothapatty, Andipatty Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the third respondent not to construct Over Head Tank at Government Pathway in S.No. 179/1 situated at Kothapatty village, Andipatty Taluk, Theni District without passing any resolution of Kothapatty Village Panchayat by considering the petitioner's representation dated 16.02.2022 within a time frame to be fixed by this Court.

For Petitioner	:Mr.J.Senthil Kumariah
For R1 and R2	:Mr.D.Sasikumar
	Additional Government Pleader
For R3	:Mr.B.Vijay Karthikeyan
For R4	:Mr.P.Subbaraj
	Special Government Pleader

O R D E R

This Writ Petition has been filed for a Mandamus seeking for a direction to the third respondent not to construct an Over Head Tank at the Government Pathway in S.No.179/1 situated at Kothapatty village, Andipatty Taluk, Theni District without passing any



resolution of Kothapatty Village Panchayat by considering the petitioner's representation dated 16.02.2022 within a time frame to be fixed by this Court.

2.The case of the petitioner is that the third respondent has constructed an Over Head Tank on the instruction of the fourth respondent in the aforementioned survey number and village. According to the petitioner, the Over Head Tank is being constructed in a Government pathway. He has given a representation on 16.02.2022 to the first and second respondents requesting them to take action against the fourth respondent and to forbear the third respondent from constructing the Over Head Tank in the aforementioned property. Since the said representation has not been considered till date, the present Writ Petition has been filed.

3.Heard Mr.J.Senthil Kumariah, learned Counsel for the petitioner, Mr.D.Sasikumar, learned Additional Government Pleader, who accepts notice on behalf of the first and second respondents, Mr.B.Vijay Karthikeyan, learned Standing Counsel, who accepts notice on behalf of the third respondent and Mr.P.Subbaraj, learned Special Government Pleader, who accepts notice for the fourth respondent.

4.On instruction, the learned Additional Government Pleader appearing for the first and second respondents as well as the learned Standing Counsel for the third respondent would submit that the Over Head Tank is constructed by the third respondent not in a Government pathway, but the said land, where the Over Head Tank is constructed, is situated in the end of the street and not in a private pathway as alleged by the petitioner. It is also submitted by them that based on the Central Government scheme, namely, Jal Jeevan, funded by NABARD, the Over Head Tank is being constructed. It is also represented by them that the Over Head Tank constructed by the third respondent is meant for the Scheduled Caste community people. The said statement made by the respective Counsels is recorded.

5.No prejudice will be caused to the respondents, if the petitioner's representation, dated 16.02.2022 is considered on merits and in accordance with law within a time frame to be fixed by this Court.

6.Accordingly, this Court directs the second respondent to consider the petitioner's representation, dated 16.02.2022 requesting him to direct the third respondent not to construct the Over Head Tank in Government pathway in S.No. 179/1 situated at Kothapatty village, Andipatty Taluk, Theni District, as according to him, the said construction is being done on the instruction of the fourth respondent without authority and pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



7. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

cmr

To

1. The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai - 600 009.

2. The District Collector (cum) The Inspector of
Panchayat, Theni, Theni District.

3. The Executive Engineer,
The Tamil Nadu Water Supply and Drainage
Board (TWAD),
No.33, Gandhiji Main Road, NRT Nagar,
Allinagaram, Theni - 625 531.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-8241[F]
dated 24/02/2022)

+1 CC to M/s.SPL GP (SR-8303[F] dated 24/02/2022)

Order made in
W.P. (MD) No.3441 of 2022
23.02.2022

NSN (CO)
GC (08.03.2022) 3P 6C