



WEB COPY

W.P.No.13659 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13659 of 2015

and

M.P.No.1 of 2015

1.Mr.P.Jeyaseelan

2.Mrs.Vijaya Bharathi

... Petitioners

Vs.

1.The District Collector
Namakkal Collectorate,
Namakkal.

2.The Executive Engineer,
PWD, Water Resources Organization,
Sarapange Drainage Division,
Collectorate, Namakkal,

3.The Revenue Divisional Officer,
Namakkal.

4.The Assistant Engineer,
PWD, Water Resources Organization,
Irrigation Division, Senthamangalam,
Senthamangalam, Road,
Namakkal.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that the impugned notice in Ka.En:1/u Po (Se) / Nal dated 20.04.2015 does not apply to the petitioners and consequently forbear the 4th respondent not in any way disturb or dislocate or remove the water pipe line laid by the petitioners with the permission of the 3rd Respondent connecting the well situated in agricultural land in Survey No.8/3, Nadukombai Village, Namakkal Taluk, Namakkal District to the well situated in Agricultural land in Survey No.211/3, Uthrakidi Kaval Panchayat, Namakkal Taluk, Namakkal District.

For Petitioners : Mr.N.G.R.Prasad

For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The notice issued by the 4th respondent based on the orders issued by the High Court in W.P.No.24871 of 2014 is under challenge in the present writ petition.

2. The petitioners state that they are small farmers and cultivating their agricultural land owned by them. The Survey No.8/3 and Survey No.211/3 have wells. The well in Survey No.8/3 is at the bottom of the Kolli Hills in Namakkal. There is a lot of flow in the well. But the well in Survey



No.211/3, situated 2 Kms away from Survey No.8/3 does not have enough water to cultivate the land belonging to the petitioners.

WEB COPY

3. The petitioners state that they grow coconuts, coco and other crops. Thus, permission was granted by the 3rd respondent i.e., the Revenue Divisional Officer (RDO), Namakkal District on 04.01.2009 and accordingly, the petitioners laid pipelines, connecting the well in Survey No.8/3 with the well in Survey No.211/3.

4. One Mr.Pannerselvam, an agriculturist in the Village gave a complaint to the authorities on 26.07.2013 and 03.09.2013 that one Mr.Jagadeesan, who is having a well in his land at the foot of the Kolli Hills had laid pipeline in the odai to Jaganathan's land. Under the guise of cultivating Jaganathan's land, he was actually selling the water for commercial purposes to Sago Factory owned by A.K.P.Mani.

5. As a result, the water table was getting dried up leaving no water for his land. He wanted the pipeline to be removed. Therefore, the said Pannerselvam filed a writ petition in W.P.No.24871 of 2014 and this Court passed an order on 18.03.2015 as follows:



WEB COPY

W.P.No.13659 of



“5.As it could be seen from the proceedings of the second respondent, the second respondent has clearly held that the pipelines laid by the fifth respondent is unauthorised and advised him to remove the same within 15 days. However, he has not removed the same, till date and there this Court is of the view that appropriate direction should be issued.

6.When the petitioner made a complaint to the Hon'ble Chief Minister Cell, the Block Development Officer, Senthamangalam Block, sent a reply to the Special Officer of the Hon'ble Chief Minister Cell on 16.07.2014 stating that the petitioner's complaint has been forwarded to the second respondent. This communication was received in July 2014 and there appears to have been no action taken till date and no report has been filed by the second respondent.

7.In the light of the above, there will be a direction to the second respondent to implement the notice dated 18.09.2013, and take appropriate action for the removal of unauthorised pipelines which have been laid by the private respondents after issuing a notice to them within a period of



30 days from the date of receipt of a copy of this order.

8.The writ petition is disposed of with the above direction. No costs.”

6. Based on the order passed by this Court, the impugned notice was issued to the writ petitioners.

7. The learned counsel appearing on behalf of the writ petitioners mainly contended that the petitioners have not illegally extracted water nor they were selling the extracted water for commercial purposes. The petitioners are using the water by laying pipelines only for the agricultural purposes and with the permission of the competent authorities. In proceedings dated 04.01.2009, the permission was granted by the Tahsildar, Namakkal District and therefore, the petitioners have not committed any illegality. Thus, the impugned notice is to be set aside.

8. The learned Additional Government Pleader appearing on behalf of the respondents opposed the said contentions by stating that the petitioners have illegally laid pipelines and was extracting water for commercial purposes, which is an offence and the permission granted only for



agricultural purposes and that has been misused by the petitioners. Therefore, the authorities issued a notice. Thus, this writ petition is to be rejected.

WEB COPY

9. Considering the arguments of the respective learned counsels appearing on behalf of the parties to the *lis* on hand, the nature of the impugned notice is to be considered.

10. The impugned notice was issued based on the order passed by this Court in the writ petition in W.P.No.24871 of 2014, which states that there are complaints regarding illegal pipelines utilised for selling the water for commercial purposes. In this regard, the pipelines belonging to one Mr.Jagadeesan was disconnected. Therefore, the authorities have issued a notice, stating that the petitioners have to voluntarily remove the pipelines within a period of 30 days, failing which, they will initiate appropriate action to remove the pipelines.

11. Let us consider the permission granted to the petitioners in proceedings dated 04.01.2009.



WEB COPY

12. The said permission was granted by the Tahsildar, Namakkal District in the year 2009, which clearly states that the petitioners are permitted to lay pipelines through poromboke land only for agricultural purposes and between the two wells. Granting permission to utilise the poromboke land itself is a concession shown to the petitioner. More so, the validity of the order passed in the year 2009 is to be revisited by the District Collector at this length of time on account of several developments occurring in that locality and in the matter of utilisation of water for agricultural purposes.

13. Disputes regarding sharing of water is topping-up in that location and therefore, the Government also issued circulars to regulate the water distribution for agricultural purposes. Illegal extraction of water, selling of water to commercial purposes without getting proper license / permission, extracting water from the public canals or rivers, all are to be seriously looked into by the competent authorities, since equal distribution of water to all Ayacutdars is a right conferred and such right conferred on the other Ayacutdars/agriculturists are to be protected by the competent authorities. Periodical inspection in this regard is warranted. For personal benefits,



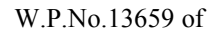
permission cannot be granted, infringing the right of the other persons, who are also equally entitled for sharing of water for agricultural purposes.

WEB COPY

14. In the present case, based on the complaint, action was taken by the competent authorities and the authorities during inspection, found his illegality and initiated appropriate action. One Mr.Pannerselvam had given a complaint, since the authorities failed to initiate action, he filed W.P.No.24871 of 2014 and this Court passed an order, directing the 2nd respondent to implement the notice dated 18.09.2013 and take appropriate action for removal of unauthorised pipelines, which have been laid by the private persons after issuing a notice to them.

15. Based on the said order, the impugned notice has been issued. Thus, the petitioner ought to have removed the illegal pipelines, if any laid by them. Contrarily, he approached this Court by stating that he was not extracting the water illegally.

16. By virtue of the interim order of *status quo* granted on 30.04.2015, the petitioner is maintaining the pipeline. Whether the petitioner has misused the pipeline all along for the past about seven and half years during the



WEB COPY

WEB COPY

WEB COPY

WEB COPY

WEB COPY



To

W.P.No.13659 of



- 1.The District Collector
Namakkal Collectorate,
Namakkal.
- 2.The Executive Engineer,
PWD, Water Resources Organization,
Sarapange Drainage Division,
Collectorate, Namakkal,
- 3.The Revenue Divisional Officer,
Namakkal.
- 4.The Assistant Engineer,
PWD, Water Resources Organization,
Irrigation Division, Senthamangalam,
Senthamangalam, Road,
Namakkal.



WEB COPY



W.P.No.13659 of

S.M.SUBRAMANIAM, J.

Jeni/Kak

W.P.No.13659 of 2015

20.04.2023