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W.P.No.1875 of 2023 & Sub.A.(OS) No.59
of 2023 in Cont.P.No.D 9120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.1875 of 2023 &
Sub.A.(OS) No.59 of 2023 in
Cont.P.No.D 9120 of 2023

M/s. Santosh Limited
Rep. by its Director
135/1, Santosh Nagar
Mangalapuram Village
Rasipuram Taluk
Namakkal District 636 202.

.. Petitioner
in all

Vs.

The District Collector
Namakkal District.

The Tahsildar
Rasipuram.

The President
Mangalapuram Grama Panchayat
Rasipuram Taluk, Namakkal District.

The Superintendent of Police
Namakkal District
Namakkal.

.. Respondents
in W.P.



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Shreya P Singh, IAS
The District Collector
Namakkal District.

Kartikeyan
The Tahsildar
Rasipuram.

Jaisurya
The Head Surveyor
Namakkal District.

Gosaliya
The President
Mangalapuram Grama Panchayat
Rasipuram Taluk, Namakkal District.

Respondents in
Sub.A. & Cont.P.
..

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus to permit the petitioner to restore the pipelines (to carry raw water and effluent, between the main industry and ETP premises), at the cost of second and third respondents, in Survey No.136, at a depth of 7 feet with police protection, and to direct the second and third respondents to restore and maintain the public pathway in S.No.26 and 26/4 of Mangalapuram Village, Rasipuram Taluk, Namakkal District, which were damaged illegally.

Sub Application praying to dispense with the production of the original order passed by this Court in W.P.No.34518 of 2022 dated 22.12.2022.



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Contempt Petition under Section 11 of the Contempt of Courts Act, 1971 against the alleged wilful disobedience of the order dated 22.12.2022 made in W.P.No.34518 of 2022.

For the Petitioner : Mr.T.N.Rajagopalan
For Mr.S.Kamlesh Kannan

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has come up with this writ petition to permit them to restore the pipelines to carry raw water and effluent, between the main industry and ETP premises, at a depth of 7 feet in Survey No.136, with police protection and to direct the second and third respondents to restore and maintain the public pathway in S.No.26 and 26/4 of Mangalapuram Village, Rasipuram Taluk, Namakkal District, that were damaged illegally.

2. The petitioner is a registered company carrying on maize



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processing and functioning since 1993 in S.Nos.133/1, 133/2, 135/1, 135/3 and 135/4, Santhosh Nagar, Mangalapuram Village, Rasipuram Taluk, Namakkal District. The said industry was purchased from the Tamil Nadu Industrial Investment Corporation Ltd. (in short "TIIC"), by a registered sale deed dated 10.04.1993, including the land, superstructure and machineries belonging to M/s. Salem Glucose Pvt. Ltd., as M/s. Salem Glucose Pvt. Ltd. defaulted in repayment of loan amount borrowed from TIIC.

3. According to the petitioner, there are three maize industries in Tamil Nadu, including the petitioner industry, producing 45000 tons of maize grown in this State. Thus, around 6000 farmers are benefitted and around 200 persons are employed in the petitioner industry. On 28.09.2022, a notice under Section 7 of the Land Encroachment Act was issued alleging encroachments by way of constructing compound wall and effluent treatment plant and growing 8 coconut trees and 70 betel nut trees. Though a detailed reply was given, without considering the same, a notice under Section 6 of the Act was issued on 11.10.2022. Hence, an appeal was filed before the first respondent,



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who, by order dated 06.12.2022, allowed the appeal by directing the third respondent to initiate action under the Tamil Nadu Panchayats Act, 1994 by following due process of law.

4. The third respondent issued notice under Section 131 of the Tamil Nadu Panchayats Act, on 13.12.2022. Contending that the said notice was issued without conducting survey and without following due process of law, a writ petition in W.P.No.34518 of 2022 was filed. The said writ petition was dismissed on 22.12.2022, directing the respondents to remove the encroachment after conducting an accurate and detailed survey in the presence of the petitioner.

5. On 19.01.2023, the Revenue and Panchayat officials, along with excavators, arrived at the petitioner industry and demolished the compound wall and damaged the pipelines laid at 7 feet depth from the surface level, which run from the industry to the Effluent Treatment Plant (for brevity "ETP") and also removed the same. Further, they damaged the public pathway connecting the main industry and the ETP premises. Hence, the petitioner industry could



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not run, thereby the livelihood of 200 employees and 6000 farmers are affected. Hence, the above writ petition.

6. Learned counsel appearing for the petitioner submitted that the action of respondents in removing the pipelines, which were laid after obtaining permission from the competent authority and laid at 7 feet depth below the surface level, is in violation of the order of this Court dated 22.12.2022.

7. Learned counsel further contended that the removal of the pipelines has put the petitioner industry to halt, causing financial loss to the petitioner industry and affecting the livelihood of 200 employees and their families.

8. Learned State Government Pleader, referring to the detailed counter affidavit filed by the second respondent, submitted that though the pipelines were laid under the ground, they were routed through the lands in S.Nos.25 and 136 which are classified as river poramboke and that since the untreated sewage water is sent through



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the pipelines, there are possibilities of sewage water getting mixed up with river water.

9. Learned State Government Pleader further submitted that in view of the damage caused to the pipelines, a small portion of untreated water got mixed up in the river water and thereby polluting the same and therefore, the petitioner has to take the sewage water directly from their patta land to their ETP premises.

10. A perusal of the proceedings of the second respondent dated 17.05.2021 makes it clear that the petitioner industry was permitted to take the effluent water through the pipelines laid already, plus additional four lines; after treatment, the water should be taken to their patta land; the treated water should meet the norms of Tamil Nadu Pollution Control Board; local cess, local cess surcharge, track rent applicable to the village would be collected on the basis of the length of the pipelines; and the treated effluent water should be used for agricultural irrigation purpose.



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11. In view of the above, the stand taken by the second respondent in the counter that the petitioner should not take untreated effluent directly to ETP is not acceptable, as the petitioner has been granted permission to lay the pipelines at 7 feet depth below the surface level by the competent authorities. Hence, the writ petition is allowed, permitting the petitioner company itself to restore the pipelines, as they were before the encroachment removal action. The petitioner company also offered and is permitted to repair or re-lay the damaged pathway.

12. As the encroachments have already been removed, the Sub Application filed for dispensing with the production of the certified copy of the order dated 22.12.2022 made in W..No.34518 of 2022 is closed. Consequently, the Contempt Petition at DR stage is also closed. There will be no order as to costs. WMP No.1982 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
15.02.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

1. The District Collector
Namakkal District.
2. The Tahsildar
Rasipuram.
3. The President
Mangalapuram Grama Panchayat
Rasipuram Taluk, Namakkal District.
4. The Superintendent of Police
Namakkal District
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J
(kpl)

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