



WEB COPY



W.P.Nos.7761, 8523 and 9364 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI, J.

W.P. Nos.7761, 8523 and 9364 of 2020

and

W.M.P. Nos.9129, 9130, 10297 and 11448 of 2020

1. P. Arumugam

2. Selvakumar

... Petitioners in

W.P. No.7761 of 2020

K.Dharmalingam

... Petitioner in

W.P. No.8523 of 2020

K. Shanmugasundaram

... Petitioner in

W.P. No.8523 of 2020

Vs.

1. The District Collector,
Tiruppur District.

2. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

3. The Tahsildar,
Udumalpet,
Tiruppur District.

4. The Block Development Officer,
Udumalpet Union Office,
Udumalpet,
Tiruppur District.



W.P.Nos.7761, 8523 and 9364 of 2020

5. The President,
Andiyagoundanur Village Panchyat @ Uralpatti,
Udumalpet Taluk,
Tiruppur District.

Respondents 1 to 5 in
all writ petitions

6. K. Shanmugasundaram
7. K.Dharmalingam
8. Arumugam

...6th to 8th respondents in
W.P. No.7761 of 2020

6. The Inspector of Police,
Amaravathi Police Station,
Tiruppur District.

7. P. Arumugam
8. Selvakumar

.... 6th to 8th respondents in
W.P. No.8523 of 2020

Prayer in W.P. No.7761 of 2020:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 5 to forbear the respondents 6 to 8 from digging the wells in S.F. Nos.285AB2A1 and 287/1 Andhiyagoundenur Village, Udumalpet Taluk, Tiruppur District respectively without proper permission and by using a more powerful explosives without any authorization by considering the petitioners representations dated 11.05.2020, 13.05.2020 and 18.05.2020.

Prayer in W.P. No.8523 of 2020:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 8 from preventing the petitioner from



W.P.Nos.7761, 8523 and 9364 of 2020

digging the well in his agricultural land in Ka.Sa. No.286/1 in Andhiyagoundanur Village, Udumalpet Taluk, Tiruppur District in accordance with the permission granted by the 5th respondent dated 12.05.2020.

Prayer in W.P. No.9364 of 2020:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 8 from preventing the petitioner from digging the well in his agricultural land in Ka.Sa. No.285/AB2A1 in Andhiyagoundanur Village, Udumalpet Taluk, Tiruppur District in accordance with the permission granted by the 5th respondent dated 12.05.2020.

In W.P. No.7761 of 2020

For Petitioners	: Mr.Mohammed Yaqoob Kafeel for Mr.D.R. Arunkumar
For Respondents	: Mr.V. Manoharan Addl. Govt. Pleader for R1 to R4 Mr.M.Purushothaman for R6 & R7 Mr.R.Govindasamy for R5

**In W.P. No.8523 of 2020
and 9364 of 2020**

For Petitioner in both W.P.s	: Mr.M.Purushothaman
For Respondents in both W.P.s	: Mr.V. Manoharan Addl. Govt. Pleader for R1 to R4 and R6 Mr.R.Govindasamy for R5 Mr.Mohammed Yaqoob Kafeel for Mr.D.R. Arunkumar for R7 & R8



W.P.Nos.7761, 8523 and 9364 of 2020

COMMON ORDER

Since the issue involved in all these writ petitions, is one and the same, these writ petitions are disposed of by this common order.

2. W.P. No.7761 of 2020 has been filed for a Mandamus seeking for a direction to the official respondents viz., respondents 1 to 5 to forbear the private respondents 6 to 8 from digging the Wells in S.F. Nos.285AB2A1 and 287/1 Andhiyagoundenur Village, Udumalpet Taluk, Tiruppur District respectively without proper permission and by using a more powerful explosives without any authorization by considering the petitioners representations dated 11.05.2020, 13.05.2020 and 18.05.2020.

3. On the other hand, W.P. Nos.8523 and 9364 of 2020 have been filed by the respective petitioners seeking for a Mandamus to forbear the respondents 1 to 8 from preventing the respective petitioners from digging the well in their respective agricultural lands in Ka.Sa. No.286/1 and Ka.Sa. No.285/AB2A1 in Andhiyagoundanur Village, Udumalpet Taluk, Tiruppur District in accordance with the permission granted by the 5th respondent dated 12.05.2020.

4. The short facts involved in these writ petitions are that there is



W.P.Nos.7761, 8523 and 9364 of 2020

a dispute between the private parties with regard to digging of a well. It is averred that the petitioners in W.P. Nos.8523 of 2020 and 9364 of 2020 have got permission from the 5th respondent for digging of Well in their respective lands, which is meant for carrying out agricultural activities. It is stated that the 7th respondent is an highly influential person and causing hindrances to complete the said task. Further, the petitioner in W.P. No.8523 of 2020 has filed an undertaking, that without causing any damage to the property of the 7th respondent, the said task will be completed. Hence, they sought for issuance of appropriate directions from this Court in the above regard.

5. On the contrary, the petitioner in W.P. No.7761 of 2020 has stated in his petition that the 2nd petitioner is his relative and both of them are objecting for the digging operations as the said digging would cause damage to their properties. Further, it is averred that the private respondents are using powerful explosives and without getting appropriate directions from the authorities concerned viz., the 1st respondent, the private respondents are doing such digging operations. Hence, they approached this Court for issuance of appropriate directions



W.P.Nos.7761, 8523 and 9364 of 2020

in the above regard.

WEB COPY

6. Heard the arguments of the learned counsels on either side and perused the materials on record.

7. A perusal of records reveals that the petitioner in W.P. Nos.8523 and 9364 of 2020 have submitted representation before the official respondents and being satisfied with all the requirements placed, the 5th respondent has granted permission for digging Well. Further it reveals that the properties of the said petitioners are situated halfway between the proposed well and the house of the 7th respondent. Adding further, it is noted that on 17.03.2021, this Court had earlier appointed an Advocate Commissioner to enable the petitioner in W.P. Nos.8523 of 2020 and 9364 of 2020 for carrying out the digging operations without causing any damage to the property owned by P.Arumugam, who is the petitioner in W.P. No.7761 of 2020 and the Advocate Commissioner appointed by this Court has also filed a status report and the same is taken on record.

8. It is observed in the said status report filed by the Advocate Commissioner that the petitioner in W.P. Nos.8523 and 9364 of 2020 have applied for permission for digging of well as per the Explosives Act from the 5th respondent, whereas the competent authority is the 1st



W.P.Nos.7761, 8523 and 9364 of 2020

respondent. Further, it is clear that the petitioner in W.P. Nos.8523 and 9364 of 2020 and petitioners in W.P. No.7761 of 2020 are adjacent owners and the said digging of well is meant for agricultural purpose and in the said report it is stated that such digging operations would not cause any hindrance / damage to the properties of the petitioners in W.P. No.7761 of 2020.

9. Furthermore, the petitioner in W.P. No.8523 of 2020 has submitted an affidavit of undertaking before this Court, wherein it is stated in paragraph No.6 that such digging of Well would not cause any damage to the property of the 7th respondent and also given an undertaking that he will pay the damages, if any caused to the 7th respondent. Though the other petitioner, who is sailing along with the petitioner in W.P. No.8523 of 2020 has not filed any Undertaking, learned counsel appearing for the petitioner in W.P. No.9364 of 2020 on instructions submitted that the petitioner has also agreed for the same as like that of the petitioner in W.P. No.8523 of 2020 with regard to the undertaking.



W.P.Nos.7761, 8523 and 9364 of 2020

10. In the above said facts and circumstances of the case as well as the undertaking given by petitioner in W.P. Nos.8523 and 9364 of 2020, this Court issues the following directions :-

i) The petitioner in W.P. Nos.8523 and 9364 of 2020 are directed to submit a fresh application before the official respondents for the purpose of digging of Well in their respective agricultural lands situated in Ka.Sa. No.286/1 and Ka.Sa. No.285/AB2A1 in Andhiyagoundanur Village, Udumalpet Taluk, Tiruppur District, within a period of two weeks from the date of receipt of a copy of this order.

ii) On receipt of the said application, the official respondents shall conduct field inspection in the presence of the respective petitioners as well as the private respondents, who are aggrieved by such digging operations, within a period of two weeks, thereafter.

iii) On satisfaction of the safety measures taken by the respective petitioners, the 1st respondent shall accord fresh permission with stringent conditions, including compensation towards damages, if any caused to the properties belonging to the petitioners in W.P. No.7761 of 2020, due to usage of explosives by the respective petitioners for the aforesaid task, on merits and in accordance with law, within a period of four



W.P.Nos.7761, 8523 and 9364 of 2020

weeks, thereafter.

WEB COPY

iv) Only after issuance of fresh permission by the official respondents, the petitioner in W.P. Nos.8523 and 9364 of 2020 shall proceed with the said work.

11. With the aforesaid directions, these writ petitions is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.06.2023

Internet : Yes/No

Index: Yes/No

Speaking order/Non-speaking order

vsi2



WEB COPY



W.P.Nos.7761, 8523 and 9364 of 2020

M.DHANDAPANI, J.

vsi2

To

1. The District Collector,
Tiruppur District.

2. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

3. The Tahsildar,
Udumalpet,
Tiruppur District.

4. The Block Development Officer,
Udumalpet Union Office,
Udumalpet,
Tiruppur District.

5. The President,
Andiyagoundanur Village Panchyat @ Uralpatti,
Udumalpet Taluk,
Tiruppur District.

W.P. Nos.7761, 8523 and 9364 of 2020

06.06.2023