



WEB COPY



W.P.No.8885 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.8885 of 2015
and
M.P.No.1 of 2015

Nachimuthu Gounder

...Petitioner

-Vs-

1. The District Collector,
Collectorate, Coimbatore.
2. The Revenue Divisional Officer,
Pollachi, Coimbatore District.
3. The Taluk Executive Magistrate-cum-Tahsildar,
Taluk Office, Pollachi,
Coimbatore District.
4. Pechimuthu
5. The Inspector of Police,
Taluk Police Station,
Pollachi, Coimbatore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the Order bearing Na.Ka.No.2299/ 2015/Aa2, dated 20.2.2015, on the file of the 3rd respondent and to quash the same.

For Petitioner : Mr.T.M.Naveen



WEB COPY



W.P.No.8885 of 2015

For Respondents :
(for R1 to R3 & R5) : Mr.S.Ravichandran, AGP
(for R4) : Mr.S.Nagarajan

ORDER

The order dated 20.02.2015, passed by the 3rd respondent is under challenge in the present writ petition. The writ petitioner was forborne from interfering with the flow of water falling to the lands belonging to the 4th respondent.

2.The learned counsel for the petitioner states that the assessment made by the 3rd respondent for granting such an order of injunction against the writ petitioner is in violation of the provisions of the Tamil Nadu Irrigation Works (Construction of Field Bothies) Act 1959. It is contended that the Parambikulam Aliyar Project Scheme has not been notified under the said Act and therefore, the order impugned is liable to be set aside. In order to appreciate the facts, this Court directed the learned Additional Government Pleader to find out whether any subsequent notification is issued by the Government including the Parambikulam Aliyar Project Scheme, under the provisions of the Act.



W.P.No.8885 of 2015

3.The learned counsel for the 4th respondent made a submission that the Parambikulam Aliyar Project Scheme is covered under the provisions of the act and there is a subsequent notification to that effect. However, the Government Pleader is unable to produce the said notification.

4.The learned Additional Government Pleader, on instructions, made a submission that the back files in respect of the writ petition on hand are missing and therefore, the authorities are not in a position to file counter affidavit with reference to the dispute. Eight (8) years had lapsed. Regarding the missing of files, the first respondent is directed to conduct an inquiry and initiate appropriate action against the officials who all are responsible and accountable for the maintenance of files in the office.

5.In the absence of any counter and files on the side of the respondent, this Court is unable to resolve the issues on merits. The facts are unable to be ascertained. The petitioner is aggrieved from and out of the impugned order. On account of efflux of time, this Court is of the considered opinion that the matter is to be re-adjudicated by the competent authority under the act so as to resolve the dispute between the



W.P.No.8885 of 2015

petitioner and the 4th respondent in the matter of sharing of water for irrigation. Accordingly, the order impugned passed by the 3rd respondent in proceeding in Na.Ka.No.2299/2015/Aa2, dated 20.02.2015 is quashed and the matter is remanded back for fresh consideration.

6.The second respondent is directed to inspect the properties and conduct an inquiry after affording an opportunity to the petitioner and the 4th respondent, and thereafter, pass orders on merits and in accordance with law and in consonance with the provisions of the act or scheme which all are in force. The said exercise is directed to be done as expeditiously as possible.

7.With these directions, the writ petition stands **allowed**. No costs. Consequently, the connected miscellaneous petition is closed.

15.03.2023

Index:Yes
Speaking order
Neutral Citation:Yes
sha



W.P.No.8885 of 2015

To

WEB COPY

1. The District Collector,
Collectorate, Coimbatore.
2. The Revenue Divisional Officer,
Pollachi, Coimbatore District.
3. The Taluk Executive Magistrate-cum-Tahsildar,
Taluk Office, Pollachi,
Coimbatore District.
4. The Inspector of Police,
Taluk Police Station,
Pollachi, Coimbatore District.



WEB COPY



W.P.No.8885 of 2015

S.M.SUBRAMANIAM, J.

sha

Writ Petition No.8885 of 2015
and
M.P.No.1 of 2015

15.03.2023