



W.P. No.19259 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.19259 of 2019

and

W.M.P. Nos.18695 and 18696 of 2019

Dr.P.K. Rangaiya

... Petitioner

Vs

1. The District Collector,
Erode District.

2. The Tahsildar,
Anthiyur,
Erode District.

3. The Junior Engineer,
Water-Channel Section Office,
Public Works Department,
Ammapettai,
Erode District.

4. The Executive Officer,
Ammapettai Town Panchayat,
Erode District.

5. P.K. Chinnusamy

6. P.K.P. Ravi

7. P.K.P. Saravanan *

... Respondents

* R5 to R7 were impleaded by this Court
in W.M.P. No.28943 of 2019 on
07.11.2019.



W.P. No.19259 of 2019

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 08.02.2019 made in Na.Ka.0138/2019/A1 by the 2nd respondent, quash the same and consequently direct the 2nd to grant "No Objection Certificate" pursuant to the request of the 4th respondent dated 04.06.2018 made in Na.Ka. No.137/2018 to regularize and grant permission to take water through the existing underground pipeline to petitioner's agricultural lands in R.S. No.271/2 and 254/2B from the Common Well in R.S. No.276 of Ammapettai Village.

For Petitioner : Mr.R. Prabakar
For Respondents : Mr.U. Baranidharan,
Addl. Govt. Pleader

ORDER

This writ petition has been filed challenging the order of the 2nd respondent in Na.Ka.0138/2019/A1, dated 08.02.2019 and for a direction to the respondents to permit the petitioner to take water through the existing underground pipeline to petitioner's agricultural lands in R.S. No.271/2 and

2. It is the case of the petitioner that he is the owner of the lands situated in R.S. No.271/2 and 254/2B measuring an extent of 7½ Acres and carrying on irrigation activities in the aforesaid land by laying underground pipeline from the Common Well situated in R.S. No.276. It is stated that the said underground pipeline was laid before four decades, as evidenced from the partition deed, dated 10.10.1988. While so, due to some family



W.P. No.19259 of 2019

dispute, the underground pipeline connection was disconnected and thereby water flow to his lands was ceased. It is averred that he filed suit in O.S.

No.481 of 2016 before the District Munsif Court, Bhavani and on the other hand, the 5th respondent filed writ petition viz., W.P. No.7911 of 2015, before this Court. Subsequently, the said writ petition was disposed of and thereby, the 4th respondent disconnected the pipeline connection for submission of necessary permission from the authorities concerned. Such being the position, he gave several representations to the respondents seeking for issuance of "No Objection Certificate", whereas the 2nd respondent has passed the impugned order, stating the pendency of the suit in O.S. No.481 of 2016 as well as considering the objections raised from other persons. Challenging the same, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that the representations of the petitioner have not been considered by the respondents in a proper perspective. He further submits that the petitioner has filed the suit in O.S. No.481 of 2016 on the file of the District Munsif Court, Bhavani and subsequently, the same has been withdrawn on 21.08.2019 and there is no legal impediment for considering the petitioner's



W.P. No.19259 of 2019

application. He also submitted that without affording an opportunity of personal hearing to the petitioner, the impugned order has been passed by the 2nd respondent, which is in violation of principles of natural justice. Hence, he submits that passing of the aforesaid impugned order is unsustainable and therefore, he prays for issuance of appropriate directions to the respondents in the above regard.

4. Learned Additional Government Pleader appearing for the respondents submitted that without establishing the exclusive right over the said properties, the petitioner enjoyed the suit properties. Reiterating the counter affidavit, he submitted that the lands bearing R.S. No.271/2, 254/2B, 276 were joint family properties, as per Document No.1827 of 1988, dated 10.10.1988 and thus, the Well situated in the land in R.S. No.276 pertains to the said joint family. He further submitted that the petitioner did not show any proof to substantiate his exclusive right over the properties and therefore, the respondents have passed the impugned order based on the objections received at their end. He also submitted that without obtaining permission, the petitioner has laid pipelines underneath



W.P. No.19259 of 2019

the Government Poramboke lands and hence, the earlier pipeline connection given by him was disconnected. Further, he submitted at the time of issuance of the impugned order, the suit in O.S. No.41 of 2016 was pending on the file of the District Munsif Court, Bhavani. However, he has no objection for issuance of appropriate directions to the respondents in the above regard.

5. Heard, learned counsel for the petitioner and Mr.U. Baranidharan, learned Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

6. It is not in dispute that the petitioner has given pipeline connection to draw water from the Well situated in the land in R.S. No.276. Admittedly, he has submitted application before the respondents for issuance of No Objection Certificate. Though the petitioner claim right over the subject properties, it is seen from the submissions as well as from the counter affidavit that the said properties are joint family properties. Unless and until the petitioner prove his exclusive right over the properties,



W.P. No.19259 of 2019

the claim of the petitioner cannot be entertained. However, it is the case of the respondents that the suit in O.S. No.481 of 2016 on the file of the District Munsif Court, Bhavani was pending at the time of passing the impugned order and hence, the respondents have stated the pendency of the suit in the said order, whereas, the petitioner has filed a Memo along with Daily status report before this Court showing that the said suit was withdrawn. Further, when the suit is not pending, that too when there is no legal impediment, the 2nd respondent can pass orders on merits and in accordance with law, subject to establishment of title by the petitioner over the subject properties.

7. Taking into consideration the factual aspects of the matter, this Court without interfering the impugned order and without going into the merits of the case, directs the petitioner to submit a fresh representation along with a copy of this order to the 2nd respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the 2nd respondent shall entertain the said representation and pass orders on merits and in accordance with law, within a period of six weeks



W.P. No.19259 of 2019

thereafter, after providing an opportunity of personal hearing to the petitioner as well as aggrieved parties, if any.

8. This writ petition is disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

To

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2. The Tahsildar,
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Erode District.

3. The Junior Engineer,
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W.P. No.19259 of 2019

M.DHANDAPANI, J.

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W.P. No.19259 of 2019

31.03.2023