



W.P.No.26390 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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N.Senthil Kumar

.. Petitioner

Vs

- 1.The District Collector,
Office of the District Collector,
Tirupur.
- 2.The Thashildar,
Office of the Thashildar at Madathukulam,
Madathukulam Taluk,
Tirupur District.
- 3.The Revenue Divisional Officer,
Udumalpet, Tirupur District.
- 4.The Divisional Engineer,
Highways Department,
Dharapuram.
- 5.The Executive Officer,
Kaniyur Town Panchayat,
Kaniyur, Madathukulam Taluk,
Tirupur District.



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6.The Block Development Officer,
Village Panchayat Union,
Madathukulam Taluk,
Tirupur District.

7.Manonmani

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the second respondent in his proceedings No.Pa.Mu.2542/2017/A2 dated 2.6.2017 and the consequential order passed by the fourth respondent in his proceedings Se.Mu.Ka.No.774/2017, dated 23.6.2017 and quash the same.

For the Petitioner : Ms.C.Sriranjani

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader
for respondents 1 to 6

: Mr.AR.Ramanathan
for respondent No.7

: Mr.Subhang Nair
Advocate-Commissioner

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Ms.C.Sriranjani, learned counsel for the petitioner; Mrs.R.Anitha, learned Special Government Pleader for



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respondents 1 to 6; and, Mr.AR.Ramanathan, learned counsel for the seventh respondent.

2. The matter is filed in the year 2017.

3. The petitioner is challenging the permission granted to the seventh respondent for transporting water drawn from bore well and laying underground pipeline for irrigation.

4.1. Learned counsel for the petitioner submits that the petitioner is a former President of the Village Panchayat of Jothampatti Village and is the President of the organization formed to protect the River Amarawathi and its nature in Madatukulam Taluk. It is submitted that the people in the locality get drinking water once in 20 days. The panchayat well was not in usage and the motor and pumpset are also not in working condition. No steps are taken to repair the same.

4.2. It is submitted by learned counsel for the petitioner that



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the seventh respondent obtained permission to cut the road and lay pipeline through her patta land, poramboke land, Highways waste land, from Jothampatti Village to Kaniyur (15 kms.). The seventh respondent violated the conditions by transporting water by lorries from the deep bore well and side bore wells in the agricultural nanchai land (wet land) at Survey No.28 at Kaniyur to her land at Survey No.44/1c2 at Jothampatti Village. The seventh respondent has dug giant size well and fixed deep bore well, which is around 120 feet deep and also side bore wells so that the water from the Amarawathi Ayakatu will have free flow to the seventh respondent's well. The seventh respondent also broke the walls of the small channels of the Amaravathi River to get more water to her land and well.

4.3. It is also submitted by learned counsel for the petitioner that the seventh respondent is transporting water through lorries from deep bore well in her Nanchai land (wet land) in the Amarawathi Aykatu in Survey No.28 at Kaniyur to the Punchai Dry Land at Jothampatti Village to her poultry farm. The seventh



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respondent also constructed a pump station at Changandipudur for pumping water and transporting it to another poultry farm at Chinnapan Pudur. There is no necessity to transfer water to the wet lands. If the seventh respondent is allowed to transport water for commercial purpose, irrigation of 1500 acres of agricultural lands which are being irrigated by the Amarawathi River and its water source will be dried and the water level will go down.

4.4. It is further submitted by learned counsel for the petitioner that, in spite of complaints, no action is being taken to prevent the illegal transportation of water by the seventh respondent for commercial purpose.

5. Learned counsel for the seventh respondent submits that there are ten permissions obtained by the seventh respondent. The well water is not used for commercial purpose and/or poultry farm. The same is used only for agricultural purpose. No illegal act is being done by the seventh respondent.



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6. Learned Special Government Pleader submits that the seventh respondent has obtained necessary permissions for laying down the pipelines.

7. A Division Bench of this Court, under its order dated 2.8.2019, appointed an Advocate Commissioner to cause inspection of the writ land and ascertain as to whether the water taken from Survey No.28 of Kaniyur Village is used only for agricultural purpose or it is being taken to the poultry farm located in Survey No.44/1c2 of Jothampatti Village. He was also directed to ascertain whether there is a deep bore well in Survey No.44/1c2, Jothampatti Village and whether water extracted from the said bore well is used only for poultry farm.

8.1. Pursuant thereto, the Advocate Commissioner has submitted his detailed report. According to the said report, there is no compressor used in Kaniyur, despite the seventh respondent using the same in Jothampatti. The bore well in Jothampatti is dependent on a three-phase connection, without any generator



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back-up. He observed that there is no proof to show that the water taken from the Kaniyur land is used for any purpose other than agriculture.

8.2. The report of the Advocate Commissioner further states that there is no poultry farm located in Survey No.44/1c2 in Jothampatti Village or any of the properties belonging to the seventh respondent. There is a poultry farm existing in Survey No.39 in Jothampatti Village, which belongs to one Rajendiran, who is a thirty party to the proceedings. He is the husband of the seventh respondent.

8.3. The Advocate Commissioner also verified the existence of non-return valves along the pipeline route between Jothampatti and Kaniyur lands. The officials also confirmed that the said valves prevent any flow of water in the opposite direction from Kaniyur to Jothampatti. According to him, a qualified engineer's expertise may be required to ascertain the veracity of the competing claims as to whether the valves can be easily reversed or cannot be reversed



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without digging up the land up to 10 feet distance on both sides.

However, on inspection, he found that there is no evidence indicating flow of water from Kaniyur to Jothampatti.

8.4. The inspection report further states that the seventh respondent was unable to operate the bore well due to lack of electricity connection at the time of inspection. The water collected in the tank is used for the purposes of watering about 10 acres of trees planted in the Jothampatti land and is connected to the Kaniyur land. On inspection, he did not notice any other outlet carrying water to the poultry farm. He further observed that the fact whether the water flowing from Jothampatti land to Kaniyur land without any break in the connections underground or without some other form of diversion to the adjacent poultry farm can be conclusively determined only by a qualified engineer.

9. The period of permission granted to the petitioner has already come to an end.



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10. In the light of the above, it cannot be conclusively established that illegal acts were committed by the seventh respondent while laying down the pipelines. It is also not established that the seventh respondent at the relevant time was using bore well water for poultry farm/commercial purpose. However, if as on date some illegality is noticed, then the petitioner may report to the authorities concerned, which the authorities shall consider on its own merits.

The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, W.M.P.Nos.28046 to 28048 of 2017 are closed. In view of the disposal of the writ petition, W.M.P.Nos.4038 and 4040 of 2020 filed by the petitioner to appoint an Engineer and to implead one Pe.Rajendran as party respondent are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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