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W.P.No.12951 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05.06.2024

Pronounced on : 14.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12951 of 2021 and
WMP.Nos.13760 & 14932 of 2021

M.Ramathaal

... Petitioner

Vs.

- 1.The District Collector,
Tiruppur District,
District Collector Campus,
Palladam Road,
Karuppakavundanpalayam,
Tiruppur 641 604
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Udumalpet,
Tiruppur District
- 3.The Tahsildar,
Office of the Tahsildar,
Udumalpet Taluk,
Tiruppur District
- 4.Vijayalakshmi
- 5.Gopalakrishnan
- 6.S.Devaraj

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 3 from granting any approval / permission for carrying water by laying pipelines underneath in private and public lands in the Periyavalavadi



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Village which is classified as 100 percentage Over Exploited A Category Block as per the Annexure the Government Order in G.O.(Ms).No.161 of Public Works (R2) Department dated 23.10.2019 to any person including the fourth the fifth respondents and consequently direct the respondents 1 to 3 to remove the illegal pipelines laid underneath village Street, pathway and poromboke lands for more than 1 ½ kilometers laid by the fourth respondent to carry water to and forth between the agricultural well situated in her land in SF.No.129/1 at Periyavalavadi Village, Udumalpet Taluk, Tiruppur District and the land belonging to the fifth respondent situated in SF.No.60/1, after conducting complete enquiry providing opportunity of hearing to the fourth respondent within the time stipulated by this Court based on the petitioner's representation dated 28.05.2021 and 31.05.2021.

(Prayer amended vide order dated 12.07.2021 made in WMP.No.14931 of 2021 in WP.No.12951 of 2021)

For Petitioner : Mr.M.Purushothaman

For Respondents

For R1 to 3 : Mr.S.J.Mohammed Sathik,
Government Advocate

For R4 to 6 : Mr.Subramanian
for Mr.C.Jagadish

ORDER

This writ petition has been filed forbearing the respondents 1 to 3 from granting any approval / permission for carrying water by laying



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pipelines underneath private and public lands in Periyavalavadi Village as per GO.(Ms(.No.161 Public Works (R2) Department dated 23.10.2019 and also seeking for direction to respondents 1 to 3 to remove the pipelines laid underneath village street, pathway and poramboke lands by the fourth respondent.

2. The petitioner owns land to an extent of 4.97 acres in SF.No.129/2 in Periyavalavadi Village, Udumalpet, Tiruppur District. The fourth respondent owns land in SF.No.129/1 to an extent of 4.93 acres. Originally, both the lands belonged to one person and thereafter, the petitioner as well as the fourth respondent had purchased their respective lands. After purchase, there is a dispute between the petitioner and the fourth respondent in respect of the petitioner's easementary right to use traditional pathway on the eastern side of her property and also on the western side to access the public road abutting her land. In fact, civil suits are pending between them. The fourth and fifth respondents had laid pipeline to carry water between the land comprised in SF.No.60/1 belonging to the fifth respondent and the fourth respondent's land in



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SF.No.129/1 adjacent to the petitioner's land. According to the petitioner, because of drawing of water by the fourth and fifth respondents, the petitioner's well has become dry and the water is not sufficient to cultivate her land. Further, the case of the petitioner is that the fifth respondent has a small land admeasuring 10 cents adjacent to Vadabhoothinatham 7 tanks water reservoir about 1 ½ kilometers from his land in SF.No.60/1 in Periyavalavadi Village. From the said land, the fifth respondent dug a well and laid pipeline underneath poramboke and village road connecting the land owned by the fourth respondent comprised in SF.No.129/1 in Periyavalavadi Village. Therefore, the petitioner protested over drawing water through the underneath pipeline. The petitioner lodged complaint before respondents 1 to 3 in this regard. As per the Government order in GO.Ms.No.161 dated 23.10.2019 issued by the Public Works(R2) Department, the land in Periyavalavadi Village is classified as over exploited Critical Block, category 'A' Block as per the assessment of State Ground Water Resources as on March 2009. Therefore, the drawing of water by respondents 4 and 5 is the main cause for drying of the well of the petitioner.



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3. Heard, the learned counsel appearing on either side.

4. On perusal of the counter filed by respondents 4 and 5 and also from the submissions made by the learned counsel appearing for respondents 4 & 5, revealed that there is no pipeline from survey No.129/1. They obtained permission to lay pipelines to take water from survey No.10/A at Chinnavalavadi Village to their lands in survey No.60/2A, 61/1, 62/1, Periyavalavadi Village for irrigation purposes from the revenue authorities by the proceedings dated 11.08.2000. In fact, the said permission was granted after calling for objections from the general public to lay pipeline on the poramboke lands. Since there was no objections and based on the report submitted by the Revenue Inspector dated 04.07.2000, the third respondent accorded sanction to lay pipeline. Thereafter, it was periodically renewed till the year 2020. In respect of the very same issue, already the petitioner filed suit in OS.No.65 of 2020 on the file of the District Munsif Court, Udumalpet for declaration and mandatory injunction and it is pending. That apart, respondents 4 and 5 also filed suit in OS.No.135 of 2020 on the file of the District Munsif



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Court, Udumalpet and the same is also pending. The petitioner failed to obtain any interim order from the civil court and as such, the present writ petition has been filed to get order.

5. According to respondents 4 and 5, they are not drawing water from the well in survey No.129/1 at Periyavalavadi Village. In order to secure justice, this Court appointed an advocate commissioner to inspect the subject land and also to verify the documents relating to the permission obtained from the authorities, to find out as to whether any illegal pipeline was laid by respondents 4 & 5 thereby causing disturbance to the petitioner's land.

6. The Advocate Commissioner with the help of surveyor, inspected the subject property and found that the new pipeline laid by respondents 4 & 5 is joined with old pipeline at SF.No.120/A1 from the starting of SF.No.120/A1. The pipeline from the well situated at SF.No.60/2A went to well situated in SF.No.129/1. Therefore, water is drawing from the well situated in SF.No.60/2A and is flown to well



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situated in SF.No.129/1. Thereafter, it leads to other land. Thereafter, respondents 4 & 5 had obtained permission to lay pipelines to take water from survey No.10/A at Chinnavalavadi Village to their lands comprised in S.No.60/2A, 61/1 and 62/1, Periyavalavadi Village for irrigation purposes from the revenue authorities by the proceedings dated 11.08.2000 on the file of the third respondent for the period of five years. Subsequently, on 19.08.2021, the third respondent granted permission to lay pipeline to draw water from their well situated at survey No.60/2A to their well situated at survey No.129/1. Accordingly, respondents 4 & 5 laid pipeline on the road margin as per the permission to take water from their lands at survey No.60/2A to their well situated at survey No.129/1.

7. Further, as per the Advocate Commissioner's report, no water is taken from survey No.129/1 and it does not cause any disturbance to the petitioner's land comprised in survey no.129/2. Therefore, the present writ petition has been filed only to vindicate personal grievance against respondents 4 & 5. Therefore, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this



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writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

14.06.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

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