



W.P.No.16282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 16.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16282 of 2024
and W.M.P.No.17817 of 2024

1.R.Govindaraji
2.T.Parasuraman
3.A.Manikandan
4.K.Gurunathan
5.E.Kanniappan
6.K.Kamalapadham

... Petitioners

Versus

1.The Collector,
Villupuram District,
Collector Office Road,
Moovendar Nagar,
Villupuram, Tamil Nadu 605 602.

2.The Executive Director,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road, MRC Nagar,
Raja Annamalaipuram,
Chennai 600 028.

3.The Regional Director,
Municipal Administration,
Vellore Region,
50, M.P.Sarathy Nagar,
Kagithapatarai, Vellore,
Tamil Nadu 632 012.



W.P.No.16282 of 2024

4.The Commissioner,
Kottakuppam Municipality,
Kottakuppam,
97, Mahatma Gandhi Road,
Solai Nagar, Kottakuppam,
Tamil Nadu 605 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 4th respondent to consider the representation dated 28.05.2024.

For Petitioners :: Ms.Annamma.K

For R1 to R3 :: Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.N.Naveen Kumar,
Government Advocate

For R4 :: Mr.G.Krishnaraja
Additional Government Pleader

* * * * *

ORDER

This Writ Petition is filed seeking a Writ of Mandamus, directing the 4th respondent to consider the representation dated 28.05.2024.

2. The case of the petitioners is that one R.Govindarji, alleged Panchayatar, the 1st petitioner herein states that the petitioners are the members of A/m. Shree Muthumariamman Koil Grama Panchayat, Kottai Medu Village, Kottakkuppam Municipality, Vanoor Taluk, Villupuram



W.P.No.16282 of 2024

District and according to them, there was a high rise water storage and supply tank which was erected 40 years ago, in the year 1984 in Survey No.148/8 of Kottai Medu Village Panchayat, Mariamman Koil Street, Kottai Medu Village, Kottakkuppam Municipality, Vanoor Taluk, Villupuram District. According to them, the said land belongs to A/m. Shree Muthumariamman Koil and patta stands in the name of the temple. As the tank has become non-operational and as it has already completed its life time and as the said tank creates hindrance during the festival time and cultural programmes, they requested the 4th respondent to remove the tank at the earliest. The 4th respondent has inspected the said tank in the land belonging to the A/m. Shree Muthumariamman Koil during November, 2023. The demolition work has been started and the members of Kottai Medu Panchayat decided to carry out the renovation work of A/m. Shree Muthumariamman Koil and expand the same, which has been initiated by them. At this juncture, it came to know that the 4th respondent has decided to erect and put up a new elevated water storage and supply tank in the same place where the existing dilapidated water tank is standing. Then they have raised an objection on 09.11.2023 not to construct the same. But without considering their objection and repeated reminders not to proceed with the



W.P.No.16282 of 2024

work of erecting new water tank, the 4th respondent is inspecting the site and trying to erect and construct the new elevated water storage and supply tank in the site, without any proper document, which is nothing but a colourable exercise of power. According to them, they have sent a representation dated 30.11.2023 and despite the same, no action has been taken by them or no reply has been sent to them. The 4th respondent, even after very well aware that the land belongs to Survey No.148/8 of Kottai Medu Village, Mariamman Koil Street and stands in the name of the temple, they are trying to enter into the property and proceed with the construction of the elevated water storage and supply tank. They have again sent a representation dated 28.05.2024, but the 4th respondent is proceeding on their own. Hence, with no alternate remedy, the petitioners have come out with the present Writ Petition, seeking to consider their representation.

3(i). Learned Additional Advocate General appearing for the respondents would submit that the said lands in Survey No.148/8, old Survey No.121/8, Patta No.5 stands in the name of A/m. Shree Muthumariamman Koil and this is a punja land, in which there was a water head tank constructed. It is further seen that the said lands have been



W.P.No.16282 of 2024

purchased in the year 1935 for construction of a temple and in 1947, they have also sold the said land to third parties. Many persons have constructed house in the said land. According to the learned counsel, the said lands were sold only for the purpose of constructing the temple in their place by their predecessor and at present, they have not sold it to any person. It is seen that at present, according to them, the land in Survey No.148/8 is situated in the village, Kottakuppam Municipality and its an extent of 9.59 sq. kms in which during 2011, the number of persons residing was 31,726 and now it is 40,142. According to them, there are 12 over head water tanks and 3 floor level water tanks and 17 bore wells. The water tank in Anna Nagar, Kottai Medu has a capacity of 3,000 lakh liters and was constructed on 18.07.1980 and the same has become unusable as it has been damaged and is in dilapidated condition. Hence, they wanted to demolish the same and construct a new water head tank in the said area and accordingly, they have also sought the Government's approval for construction of over head water tank and also got permission for dismantling the said water head tank.

3(ii). On 07.07.2023 to the Commissioner, the petitioners herein R.Govindaraji, T.Parasuraman, A.Manikandan, K.Gurunathan,



W.P.No.16282 of 2024

E.Kanniappan and K.Kamalapadham have given a consent letter stating that they have no objection for constructing said over head tank in the same place. As per the proceedings of the Director of the Municipal Administration in R.O.C. No.21062/2023/SS2 dated 06.10.2023, the project for sanctioning fund for construction of over head tank was decided as per the recommendations of the Capital Grant Fund and Operation and Maintenance Gap Filling Fund (2023-2024) and the amount of Rs.85.5 lakhs has been sanctioned for construction of 3 ltrs over head tank. Accordingly, the orders have been passed and amount has been sanctioned. They have also called for a tender. The tender process started on 16.10.2023. The Commissioner also has given no objection to the authorities concerned for construction of over head water tank in the same place. The Revenue documents for the said land in Survey No.148/8 to an extent of 0.17.0 stands in the name of A/m. Shree Muthumariamman Koil, the present trustee. Already, the tank has been constructed and lands have been given by the managing trustees of the said temple and the said land has been utilized for construction of the over head water tank. Now, at this juncture, it has been damaged and is in dilapidated condition and hence, they wanted to construct new tank to supply water in and around the area of



W.P.No.16282 of 2024

Kottakuppam. Accordingly, on 16.10.2023, auction was held and tender was called for and accordingly, orders was passed on 14.11.2023. The Government also produced the 'Adangal' in which it is stated that even though the land stands in the name of the temple, it talks in the remarks column that the over head water tank is available.

4. Heard both sides and perused the entire materials available on record.

5. From the materials on record, it is seen that only 5 cents of land have been taken for construction of over head water tank and the Capital Grant Fund has been granted to them. Only after consent was given by the said persons, who are the petitioners herein and only based on the same, the respondents have started the construction work and now, they cannot shift the place of construction to a new place and according to them, this cannot be accepted. There are other areas of 7 cents available for conducting festival or construction of the temple or for expansion of temple. If at all, they wanted to conduct any festival and wanted some open place, the same is available and the authorities will consider for conducting the festivals in



W.P.No.16282 of 2024

that place temporarily only during the festival period. Even though it is found that it is only a Writ of Mandamus, it could be seen that it is for a public purpose the Government is bringing new schemes for the welfare of the citizens and the petitioners are now trying to deny the fact that they have once given permission for construction and now, they say that the land is necessary for further expansion of the temple and also for conducting festivals in a grand manner. They have already handed over the land to the department 44 years back and now they cannot come and claim that the land belongs to them and the land should be left as it is and the authorities should locate the thing else where. Only based on the earlier consent, the tank was constructed and now again, the consent was given for reconstruction and demolition. It is left open to the petitioners to move the appropriate Court in the manner known to law if they are aggrieved by this order.

6. In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

16.07.2024

Index : Yes/No
gsa



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