



W.P.No.20839 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM :

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

W.P.No.20839 of 2021

and

W.M.P.No.22108 of 2021

T.Kittusamy

...Petitioner

-Vs-

1.The District Collector,  
Tiruppur District,  
Tiruppur

2.The Sub Divisional Magistrate/Sub Collector,  
Dharapuram,  
Tiruppur District

3.The Executive Engineer,  
Public Works Department,  
Water Resources Organization,  
Parambikula Aliyar Project Division,  
Pollachi – 3,  
Coimbatore District.



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4.The Assistant Engineer,  
Public Works Department,  
Irrigation – 1,  
Water Resources Organization,  
Kangayam,  
Tiruppur District

5.K.Sivasubramani

6.Neelavathi

7.Rajalakshmi

...Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Na.Ka.No.8253/2021/A1, dated 31.08.2021 passed by the 1<sup>st</sup> respondent confirming the order made in Na.Ka.No.104/2021/A, dated 07.05.2021 passed by the 2<sup>nd</sup> respondent, quash the same and consequently direct the respondents 5 to 7 to make use of the existing canal to take PAP water from the last distributory chamber located in R.S.No.878/3, Pappini Village, Kangayam Taluk, Tiruppur District to their respective lands.

For petitioner : Mr.N.Manokaran

For Respondents 1 to 4 : Mr.T.Chandrasekaran  
Special Government Pleader

For Respondent 5 : Mr.P.Vetrivel  
for Mr.B.Mohan



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## **ORDER**

This writ petition has been filed challenging the order passed by the 1st respondent dated 31.08.2021 thereby confirming the order passed by the 2nd respondent thereby directing the respondents 5 to 7 to lay pipe line to draw water to their respective land for irrigation purpose.

2. The petitioner is the co-owner of the agricultural lands measuring 2/5th share out of 5.75 acres comprised in R.S.No.878/3. The 5th respondent is also entitled to 3/5th share under the said sale deed dated 30.06.1973. Subsequently, the petitioner father executed a registered Will dated 16.05.1985 in respect of old S.No.59 and 60 corresponding to R.S.No.878. The case of the petitioner is that the petitioner, the respondents 3 and 4 constructed a sluice and also formed a north-south distributory canal from the last distributory chamber at R.S.No.878/3 and it turns towards west at the South-easter corner and runs towards west in old S.No.59 (R.S.No.878/3). While being so, the 5th respondent herein attempted to form a separate canal directly from the last distributory chamber and in the



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midst of undivided portion of the land in R.S.No.878/3. Therefore, the petitioner filed suit in O.S.No.66 of 2007 on the file of the District Munsif Court, Gangeyam for permanent injunction restraining them from forming a water canal in the midst of undivided portion of the land in R.S.No.878/3. All the defendants were set exparte and the trial court passed ex-parte decree on 06.03.2007. Now, the defendants i.e., the respondents 5 to 7 herein filed application to restore and set aside the exparte decree with condone delay petition.

2.1. While being so, the 4th respondent submitted representation before the 2nd respondent and made allegation that the petitioner obstructed his right to take water from the pipeline (PAP) outlet constructed in old S.F.No.59 (R.S.No.878/3). On receipt of the same, the 2nd respondent passed an order dated 07.05.2021. On perusal of the order passed by the 2nd respondent revealed that agricultural land in S.F.No.873/2, 873/3, 873/6 belonged to 5th respondent and the said land are covered under the Ayacut PAP. Besides agricultural land in S.F.No.878/3 belongs to the petitioner as well as the 5th respondent. The PAP water flows from the Vellakovil



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branch canal finally reached the distributory outlet situated in the portion of S.F.No.878/3 belongs to petitioner as well as the 5th respondent herein derived water through the Arani Vaikakal laid through the portion of land belonging to the petitioner for irrigation of his agricultural lands prior to the last six years. Now the said Arani Vaikal has not been available in the petitioner's portion for a distance of 100 metres. However, the said water canal in the portion of the land belonged to 5th respondent. The PAP water reached upto the said diversion tank has been diverted to the nearby pond instead of being allowed to irrigate the agricultural lands. Therefore, on final verification of the officers concerned, a detailed reports submitted before the 2nd respondent. The only objection raised by the petitioner was that his land is situated near by highways and he decided to convert his land as house site. Therefore, he refused to allow water canal across his land since it would affect this value the said land. Therefore, the petitioner is not permitting to draw the water through canal situated in his portion of land. That apart, the petitioner also filed suit and obtained decree as against the respondents 5 to 7 herein.



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3. Therefore, the second respondent gave permanent solution for this issues and permitted to lay under ground pipeline for irrigation purpose in accordance with rules, it was also confirmed by the 1st respondent.

4. Hence, this court cannot find any infirmity or illegality in the orders passed by the 1st and 2nd respondents dated 31.08.2021 and 07.05.2021. Therefore, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

23.04.2024

Index : Yes/No  
Speaking/Non-Speaking order  
Neutral Citation : Yes/No  
gvn



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**G.K.ILANTHIRAIYAN,J.**  
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