



W.P(MD)No.13322 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13322 of 2020

and

W.M.P(MD)No.11123 of 2020

A.Solairaj

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Director,
(Village Panchayat),
Virudhunagar District,
Virudhunagar.

3.The Block Development Officer,
(Village Panchayat),
Aruppukottai Panchayat Union,
Aruppukottai,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, restraining the



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respondents not to allow to flow the drainage water in the petitioners land in Survey no. 636/1 for an extent of 0.34.0 acres in Chettikuruchi village, Aruppukottai Taluk, Virudhunagar District and consequently consider the petitioner's representation dt 4.9.2020 to the first respondent and 10.09.2020 to the Assistant Director (Village Panchayat).

For Petitioner : Mr.P.Arun Jayatram

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 to R.3

Mr.V.Malaiyendran
Advocate Commissioner

ORDER

Heard both sides.

2.The petitioner is owing agricultural lands in Chettikuruchi Village in Aruppukottai Taluk. His grievance is that the local body has allowed flowing of drainage water into his land in Survey No.636/1. In fact, the petitioner had earlier filed W.P(MD)No.9605 of 2014. While disposing of the writ petition vide order dated 15.07.2014, this Court had directed the District Collector to organise a surprise visit to the spot and thereafter proceed to take appropriate action to provide dumping and



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laying out sewage water in the petitioner's land. In my view, positive direction had been granted and yet the petitioner has been continuing to suffer. That led to the filing of this writ petition. This Court had appointed an Advocate Commissioner. The Advocate Commissioner had submitted a report confirming the petitioner's allegations. There is also a reference to the remedial measures taken by the local body. But then those remedial measures appear to be rather insufficient.

3. When the matter was taken up for final hearing, the learned Special Government Pleader submitted that there is further proposal to call upon the concerned residents to have soak pits in their respective premises so that volume of drainage water being let out is reduced and it would be within the capacity of the soak pit dug by the local body.

4. I do not want to go into the feasibility of the said proposal. The petitioner has a fundamental right guaranteed under Article 21 of the Constitution of India to a clean environment. The land in question is the petitioner's land. The local body cannot be allowed to convert it into a dumping yard. If the petitioner's land is required, then the authorities



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must acquire it after paying due compensation and by adhering to due process of law. Without doing so, the petitioner's land cannot be allowed to turn waste. The petitioner's right to property as well as right to clean environment are both at stake in this case. A writ of continuing Mandamus is issued so as to restrain the respondents from allowing flowing of drainage water into the petitioner's land. I also direct the respondents to ensure that further flow of drainage water into the petitioner's land is prevented for all times to come.

5.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

16.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

1.The Chairman cum Secretary to Government,
TANGEDCO,
144, Anna Salai,
Chennai – 600 002.



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2.The District Collector,
Dindigul District,
Dindigul.

3.The Executive Engineer,
TANGEDCO,
Dindigul District (South),
Meenakshi Nayakkanpatti Post,
Angunagar, S.S.Complex,
Dindigul – 624 002.

4.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Natham,
Dindigul District.



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G.R.SWAMINATHAN, J.

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