

D.Baskar Vs. State of Tamilnadu

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SooperKanoon Citation : sooperkanoon.com/1169039

Court : Chennai

Decided On : Sep-25-2013

Judge : K.Ravichandrabaabu

Appellant : D.Baskar

Respondent : State of Tamilnadu

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

25. 9.2013 CORAM THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU Writ Petition Nos.24732, 24733 and 24734 of 2005 D.BASKAR [PETITIONER IN W.P.NO.24732 OF2005 B.SUMATHI [PETITIONER IN W.P.NO.24733 OF2005 K.RAMESH [PETITIONER IN W.P.NO.24734 OF2005 Vs 1 THE STATE OF TAMILNADU REPTED. BY THE SECRETARY TO GOVT. LOCAL ADMINISTRATION DEPARTMENT FORT ST.GEORGE CHENNAI-600 009 2 THE CHAIRMAN AND MANAGING DIRECTOR MADRAS METROPOLITAN WATER SUPPLY AND DRAINAGE BOARD1PUMPING STATION ROAD CHINTADRI PET CHENNAI-2 3 THE REVENUE DIVISIONAL OFFICER PONNERI DIVISION, PONNERI, TRIVELLORE DISTRICT4THE TAHSILDAR AMBATTUR, CHENNAI5THE INSPECTOR OF POLICE AMBATTUR, CHENNAI6THE INSPECTOR OF POLICE AMBATTUR INDUSTRIAL ESTATE AMBATTUR, CHENNAI7THE INSPECTOR OF POLICE J.J.NAGAR MOGAPIRE CHENNAI [RESPONDENTS]. W.P.No.24732 of 2005: This writ petition is filed

under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents herein from interfering in any manner with the petitioner from extracting, transporting and supplying water to the factories, schools, hospitals and public from the Patta lands of the respective land owners in S.No.409/10-1 Ayappakkam Village, No.73 and 90, and Athepet Village in S.No.123/1 in Thiruvellore District. W.P.No.24733 of 2005: This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus forbearing the respondents herein from interfering in any manner with the petitioner from extracting, transporting and supplying water to the factories, schools, hospitals and public from the Patta lands of the respective land owners in S.No.409/10-1 Ayappakkam Village, No.73 and 90, and Athepet Village in S.No.143/1 in Thiruvellore District. W.P.No.24734 of 2005: This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus forbearing the respondents herein from interfering in any manner with the petitioner from extracting, transporting and supplying water to the factories and public from the Patta lands of the respective land owners in S.No.409/10-1 Ayapakkam Village, No.73 and 90, and Athipattu Village in S.No.143/1 in Thiruvellore District. For petitioners : Ms.P.Vedavalle For respondents : Mr.N.Sakthivel Government Advocate for R1 to R7 C O M M O N

ORDER

In all the three writ petitions, the prayer is one and the same and the respective petitioners seek for a Mandamus forbearing the respondents from interfering with the petitioners' extracting, transporting and supplying of water to the factories, schools, hospitals and public from their respective patta land.

2. The case of the petitioners is as follows:

2. 1. They are the owners of water tankers duly registered with the Regional Transport Authorities. They engaged in supplying water to the factories, schools and hospitals from the bore wells in patta land. The water is being used purely for drinking purpose by the employees and school children. The petitioners applied for licence for extracting and transportation of water from those bore wells before the first respondent under Section 5(2)(ii) of the Chennai Metropolitan Area

Groundwater (Regulation) Act, 1987 (hereinafter referred to as 'the Act'). Without issuing a such licence, the petitioners' tanker lorries were intercepted by the authorities, often, and penalty was levied also by seizing the vehicles. When the petitioners have applied for licence, as contemplated under Section 5 of the Act, the authorities are bound to consider the application and pass orders within 90 days. As no further orders are passed, the petitioners have come before this Court by filing the above writ petition.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents.

4. The only grievance of the petitioners is that though they applied before the competent authority under Section 5 of the Act seeking for licence, the said authority did not pass orders and on the other hand, their vehicles were intercepted and some time also were seized. Therefore, the petitioners seek for such a relief to prevent the respondents from interfering with their business.

5. A perusal of Section 5 of the Act would show that no person shall extract or use groundwater in the scheduled area for any purpose other than domestic purposes. If any person desires to extract or use groundwater in the scheduled area for any purpose other than domestic purposes, he shall make an application to the competent authority for the grant of a licence for such extraction, use or transport. Sub clause 3 of Section 5 of the Act contemplates that every application under sub-section (2) shall be made in such form and in such manner and within such period and shall contain such particulars, as may be prescribed. Proviso to sub clause 4 contemplates that the competent authority under the Act shall dispose of the application either by way of granting the licence or refusing the same. But if no such order is passed within a period of 90 days from the date of receipt of the application, the licence shall be deemed to have been granted to the applicant. Thus, in view of the deeming provision contained under Section 5 of the said Act, if a person, who seeks for a licence, does not get any order within a period of 90 days from the date of receipt of such application, he is deemed to have been granted the licence under Section 5 of the Act. However, further perusal of Form VI, which deals with the application to be made under Section 5(4), indicates that

such licence so granted is valid only for a period of one financial year or part thereof from the date of issue of such licence.

6. Therefore, a combined reading of Section 5 and Form VI would show that the licence period is only for one financial year. When that being the statutory position, I failed to understand as to how such blanket prayer can be sought for by the petitioners. At any event, the petitioners approached this Court in the year 2005 in respect of a cause of action that arose in that year. Admittedly, the period got lapsed at the end of the financial year, namely, 2006. Therefore, I find nothing survives in these writ petitions to be adjudicated upon further and as the licence period itself is only for one year and if at all, the petitioners have got any grievance in future, it is for them to approach the respondents by way of making application under Section 5 of the Act for each financial year and as and when any such applications are filed, it is for the competent authority to consider the same and pass orders, as contemplated under Section 5(4) of the said Act. Therefore, I find that as on date nothing survives in these writ petitions to be adjudicated upon further, as cause of action itself ceased to exist. The writ petitions are dismissed as infructuous. No costs. 25.9.2013 INDEX : YES/NO INTERNET : YES/NO Ian To:

1. THE SECRETARY TO GOVT. THE STATE OF TAMILNADU LOCAL ADMINISTRATION DEPARTMENT FORT ST.GEORGE CHENNAI-600 009 2 THE CHAIRMAN AND MANAGING DIRECTOR MADRAS METROPOLITAN WATER SUPPLY AND DRAINAGE BOARD1PUMPING STATION ROAD CHINTADRI PET CHENNAI-2 3 THE REVENUE DIVISIONAL OFFICER PONNERI DIVISION, PONNERI, TRIVELLORE DISTRICT4THE TAHSILDAR AMBATTUR, CHENNAI5THE INSPECTOR OF POLICE AMBATTUR, CHENNAI6THE INSPECTOR OF POLICE AMBATTUR INDUSTRIAL ESTATE AMBATTUR, CHENNAI7THE INSPECTOR OF POLICE J.J.NAGAR MOGAPIRE CHENNAI K.RAVICHANDRABAABU J., Ian Writ Petition Nos.24732, 24733 and 24734 of 2005 25.9.2013