

Soman Vs. State of Kerala and Others

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Court : Kerala

Decided On : Aug-07-2015

Judge : Honourable the Chief Justice Mr.Ashok Bhushan

Appellant : Soman

Respondent : State of Kerala and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN & THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY, THE 7TH DAY OF AUGUST 2015 16TH SRAVANA, 1937 WP(C).No. 3031 of 2007 (S)

----- PETITIONER(S) :- ----- SOMAN, S/O.KUTTAPPAN, LEKSHMI NIVAS, VADAKKUMTHALA MEKKU WARD, PANMANA, VADAKKUMTHALA P.O. KARUNAGAPPALLY, KOLLAM. BY ADV. SRI.C.RAJENDRAN RESPONDENT(S) :- ----- 1. STATE OF KERALA, REP. BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT OF KERALA WATER RESOURCES DEPARTMENT, THIRUVANANTHAPURAM.

3. EXECUTIVE DIRECTOR, JALA NIDHI, P.T.C TOWERS, 3RD FLOOR, S.S KOVIL ROAD THAMPANOR, THIRUVANANTHAPURAM.

4. THE WATER AUTHORITY REPRESENTED BY ITS MANAGING ENGINEER, JALABHAVAN, THIRUVANANTHAPURAM.
5. THE EXECUTIVE ENGINEER, KERALA STATE WATER AUTHORITY, KOLLAM.
6. THE ASSISTANT EXECUTIVE ENGINEER, WATER AUTHORITY, EDAPPALLYCOTTA, PANMANA KARUNAGAPPALLY.
7. THE PANMANA GRAMA PANCHAYATH, EDAPPALLYCOTTA, PANMANA REPRESENTED BY ITS SECRETARY.
8. PANMANA GRAMA PANCHAYATH, SUDHAJALA VITHARANA SCHEME SAMITHI PANMANA GRAMA PANCHAYATH OFFICE, EDAPPALLYCOTTA PANMANA BY ITS, SECRETARY. WP(C).No. 3031 of 2007 (S)

9. PANMANA GRAMA PANCHAYATH, VADAKKUMTHALA MEKKU WARD, PURE WATER DISTRIBUTION COMMITTEE, REPRESENTED BY ITS SECRETARY.
10. THE CHAVARA GRAMA PANCHAYATH, PANCHYATH OFFICE, CHAVARA REPRESENTED BY ITS SECRETARY.
11. CHAVARA GRAMA PANCHAYATH, SUDHAJALA VITHARANA SCHEME SAMITHI, CHAVARA GRAMA PANCHAYATH OFFICE, CHAVARA BY ITS SECRETARY.
12. THE KERALA METALS AND MINERALS (K.M.M.L) CHAVARA, KOLLAM REP. BY ITS MANAGING DIRECTOR.
13. THE INDIAN RARE EARTHS LTD, KARITHURA, CHAVARA REP. BY ITS MANAGING DIRECTOR.
14. THE EXECUTIVE ENGINEER PROJECT, KERALA WATER AUTHORITY, TSUNAMI PUNARADHIVASA PADHATHI NIRVAHANA VIBHAGAM, PANMANA, VETTAMUKKU KOLLAM. R12 BY ADV. B.S.KRISHNAN, SC, KMML SRI.K.ANAND (A.201) SMT.LATHA KRISHNAN BY ADV. SRI.E.K.NANDAKUMAR BY ADV. SRI.ANIL D. NAIR BY ADV. SMT.A.SIRJI R2

BY ADV. DR.K.P.SATHEESAN SRI.K.K.GOPINATHAN NAIR R1 & R2 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS R4,R5,R6,R14 BY ADV. SRI.JOSEPH JOHN, SC BY SRI.M.DINESH, SC, KWA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON0708-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: jvt WP(C).NO.3031 OF 2007 APPENDIX PETITIONER'S EXHIBITS :- EXT.P1 :- TRUE PHOTOCOPY OF THE LETTER DATED236.2006 ISSUED BY THE12H RESPONDENT. EXT.P2 :- TRUE PHOTOCOPY OF THE LETTER DATED157.2006 ISSUED BY THE12H RESPONDENT. EXT.P3 :- TRUE PHOTOCOPY OF THE LETTER DATED297.2006 ISSUED TO THE PETITIONER. EXT.P4 :- TRUE PHOTOCOPY OF THE SAID LETTER OF APPOINTMENT DATED34.2006. EXT.P5 :- TRUE PHOTOCOPY OF THE BY-LAW OF THE PANMANA GRAMA PANCHAYATH SUDHAJALA SCHEME LEVEL SAMITHI. EXT.P6 :- TRUE PHOTOCOPY OF THE BY-LAW OF THE VADAKKUMTHALA MEKKU WARD SUDHAJALA VITHARANA SAMITHI. EXT.P7 :- TRUE PHOTOCOPY OF THE LETTER ISSUED TO THE PETITIONER DATED61.2007. RESPONDENT'S EXHIBITS :- NIL. //TRUE COPY// P.A. TO JUDGE ASHOK BHUSHAN, C.J & P.R.RAMACHANDRA MENON, J.

----- W.P.(C) No.3031 of 2007

----- Dated this the 7th day of August 2015

JUDGMENT

Ramachandra Menon, J.

The petitioner, who has styled himself as a public spirited person, has approached this Court seeking the following reliefs :- "i. To issue a writ of mandamus or any other appropriate writ, order or direction compelling and commanding the respondent Nos.1, 2, 4, 5 and 6 not to stop the existing system of supply of drinking water to the people in the Chavara and Panmana Grama Panchayats either through private taps and public taps. ii. To issue a writ of mandamus or any other writ, order or direction compelling and commanding the respondent Nos.1, 2, 4, 5 and 6 to do effective and timely repair works and see the supply of water to

the people in Panmana and Chavara Grama Panchayat without any interruption.

iii. To issue a writ of mandamus or any other writ, order or direction compelling and commanding the respondent Nos.1 and 12 to resume the construction of the Desalination Plant and complete same within a time frame and supply of pure water to the people in Chavara and Panmana Grama Panchayat without any charge.

iv. To issue a writ of mandamus or any other writ, order or direction compelling and commanding the respondent Nos.1 and 2 to adjust Rs.20 crores spent for the Desalination Plant towards the water charges to be met by the consumers and the poor people in Panmana and Chavara Grama Panchayat.

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2. :- v. To issue a writ of mandamus or any other writ, order or direction compelling and commanding the respondent Nos.1, 2, 4, 5 and 6 not to give the right of supply of pure water to the people in Panmana and Chavara Panchayat to respondent Nos.8, 9 and other ward level committees like respondent No.11." 2. Respondents 1 and 2 have filed a counter affidavit pointing out that the idea in understanding of the petitioner is quite wrong and misconceived.

3. Heard both sides.

4. During the course of hearing, the learned Government Pleader appearing for respondents 1 and 2 submits that the relief sought for by the petitioner is not liable to be entertained in view of the specific averments raised in the counter affidavit, more particularly, in paragraphs 3 and 8, which read as follows :- "3. Government of Kerala requested the World Bank through Government India to direct a portion of the above said credit to facilitate for implementing water supply schemes to Tsunami hit areas of the state. World Bank agreed to the request and directed Government of Kerala to prepare and submit proposals. The World Bank had a visit of the State also in this regard. Kerala Water Authority proposed three schemes of which water supply scheme to Chavara and Panmana alone was in a full and detailed shape to be accepted by W.P.(C) No.3031 of 2007 -:

3. :- the Bank. The scheme envisages to take water from the Sasthamcottah lake, treat to the standards of metro water supply standards, disinfect convey to two main reservoirs of Chavara and Panmana Panchayats and then from these

reservoirs, water is supplied through distribution network to be laid in these two panchayats. All the households in these panchayats will be given with a tap and meter at their premises and potable water will be available for all the 24 hours. The total cost of the entire scheme is Rs.2800 lakhs of which the cost of the common infrastructure ie., up to the main reservoirs will be Rs.1615 lakhs and Rs.1185 lakhs for the distribution system of which Rs.521 lakhs is for Chavara and Rs.664 lakhs is for Panmana GP. The Common infrastructure is constructed by Kerala Water Authority for which the full cost is borne by Government whereas only for distribution there is cost sharing. Each beneficiary who joins the scheme will have to pay an amount of Rs.1000/- as capital share in Chavara and Rs.1200 in Panmana. Over and above the maintenance charges of the system will also have to be borne by the beneficiary as the rate of Rs.45/- /month. The capital cost sharing will create a feeling of ownership of the scheme which will create a sense for maintaining the scheme. The GP share for Chavara GP is Rs.53 lakhs and Panmana panchayat is Rs.66 lakhs. The fund sanctioned by the World Bank has no connection with any of the Tsunami Relief Funds. These facts elaborated in paragraph 6 of the writ petition are not based on any facts. This is a scheme owned and operated by beneficiary. W.P.(C) No.3031 of 2007 -:

4. :- 8. Kerala Rural Water Supply and Sanitation Agency has so far facilitated implementation of more than 3500 water supply scheme in the Grama Panchayats in 13 districts of the State and about 2800 schemes are in operation now, which have been owned, built and maintained by poor, BPL, SC/ST people across the state. For all these water supply schemes 15% of the capital cost is shared by these so-called scientifically ignorant incapable public. So the statement that the implementation of the scheme is quite unscientific and impracticable is not based on any facts. There are Multi BG (Beneficiary Group) schemes such as Pothukal, Aliparamba etc. which are also being maintained by the public." The factual position averred by respondents 1 and 2 has not been rebutted by the petitioner by filing any reply affidavit. A separate counter affidavit has been filed by the 4th respondent, the Water Authority, as well.

5. Learned Government Pleader asserts that the infrastructure was initially provided by the Government to the Water Authority and subsequently, the same

was entrusted to various committees at different levels as pointed out in the counter affidavit. The water supply is continued as above, without fail. W.P.(C) No.3031 of 2007 -:

5. :- This being the position, this Court finds that no further relief can be given at the hands of this Court. The version put forth by respondents 1 and 2 is recorded and the matter is closed as no further orders are warranted in the present circumstances. Sd/- ASHOK BHUSHAN CHIEF JUSTICE Sd/- P.R.RAMACHANDRA MENON JUDGE Jvt

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