

(2013) 12 MAD CK 0093

In the Madras High Court

Case No : Writ Petition No. 2714 of 2012

A. Duraisamy

APPELLANT

Vs

The District Collector and The Executive Officer

RESPONDENT

Date of Decision : 13-12-2013

Acts Referred:

Citation : (2013) 12 MAD CK 0093

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : S. Saravanan, for the Appellant; V. Subbiah, Special Govt. Pleader for R1 and R2, for the Respondent

Final Decision : Disposed Off

Judgement

M. Venugopal, J.—The Petitioner has prayed the instant Writ of Mandamus praying for issuance of an order by this Court in directing the Respondents to remove the overhead water tank constructed in Survey No. 437/1A 1B in Samalapuram Village in Palladam Taluk, Tirupur District. According to the Petitioner, one Sri Ambal Mills P. Ltd., was the owner of the land measuring about 54 cents in Survey No. 437/1A 1B in Samalapuram Village in Palladam Taluk. The said Mill provided staff quarters to their employees in the same locality. As such, for the usage of the said staff quarters an Overhead Water Tank was constructed in the above mentioned land, during the year 1974. In as much as the land in which the overhead water tank was constructed belonged to the Sri Ambal Mills, the Second Respondent/Executive Officer, Samalapuram Town Panchayat, through his letter dated 27.12.1974 furnished a written assurance to the Sri Ambal Mills stating that the usage of the said tank would be only for its staff quarters.

2. The stand of the petitioner is that during the span of 40 years, Sri Ambal Mills stopped its activities/functions and its staff quarters also were vacated. As such, the very presence of the overhead water tank in the land became useless for the said Mills. Further more, the said water tank was severely damaged and became

a threat to the nearby residents. Also, the property owners could not develop or sell their lands to settle their liabilities. In this back drop, Sri Ambal Mills through a letter dated 13.06.2008 to the Second Respondent made a request to remove the overhead water tank citing its damaged condition and further informed the Second Respondent/Executor Officer, Samalapuram Town Panchayat, Tirupur District that they require the land to develop it. But, no action was taken by the Second Respondent/Executive Officer in spite of the request made thereto.

3. According to the petitioner, he along with Subramanian, Palanisamy, Shanmugam and Nataraj purchased the land (in which the overhead water tank was erected) measuring about 54 cents owned by Sri Ambal Mills in S. No. p12 437/1A 1B in Samalapuram Village in Palladam Taluk by means of registered sale deed dated 07.07.2008 on the file of the Sub Registrar Office, Sulur. Since the Respondents had not removed the damaged water tank even after three years of purchase, the petitioner addressed a letter, dated 27.05.2011, to the Second Respondent with a request to remove the damaged overhead water tank and construct it in nearby place, no action was taken by the Second Respondent in this regard.

4. The strenuous plea of the petitioner is that a damaged water tank is a serious threat to the common people and the said water tank stands in their lands, they will be put into hardship and trouble, if one's life or property is affected. Therefore, the Petitioner has written a letter dated 24.01.2012 to the First Respondent/District Collector, explaining all the aforesaid facts.

5. At this stage of hearing, the Learned Additional Government Pleader for the Respondents 1 and 2 brings it to the notice of this Court that the Petitioner and Four Others have sold their lands through the sale deed dated 07.10.2013, in favour of Sozheeswarar Temple Management for a total sale consideration of Rs. 7,25,000/- and therefore, as on date, the Petitioner has no right, title or interest in respect of the said lands.

6. Also, it transpires that Sozheeswarar Temple Management has constructed a new Overhead Water Tank (by demolishing the old water tank) and in this regard, the administrative member of the said temple management has sent a communication dated 19.11.2013 to the 2nd Respondent/the Executive Officer of the Samalapuram Municipality (First Grade), Pallapalayam, Tirupur District. In the said communication, a request has been made to remove the constructed and dilapidated Overhead Tank by demolishing the same and to utilise the new Overhead Water Tank fully. In effect, the stand of the Respondents is that the Sozheeswarar Temple Management has constructed a new overhead water tank and also handed over the same to the Second Respondent/The Executive Officer, Samalapuram Town Panchayat, Tirupur Panchayat.

7. Added further, the Second Respondent/Executive Officer of the Samalapuram Panchayat, has sent a necessary proposal to the First Respondent/District Collector, Tirupur District, for demolishing the old overhead water tank.

8. The Learned Special Government Pleader for Respondents 1 and 2 informs this Court that within a period of two months from today, the First Respondent/ District Collector, Tirupur, would take necessary steps to demolish the old overhead water tank and operate new water tank for the benefit of the villagers. Recording the said fact/statement of the Learned Additional Government Pleader, this Court on the basis of Fair play and Equity, directs the First Respondent/ District Collector, Tirupur, to demolish the old Overhead Water Tank (in the interest of safety and security of the villagers/common public without any loss of time) within a period of two months from the date of receipt of a copy of this order and to operate the new overhead water tank for the benefit of the villagers to utilise drinking water for their daily chores/needs. With the above observation, this Writ Petition is disposed of. No costs.