

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26782 of 2013 and M.P.Nos.1 and 2 of 2013

K.Sethuramalingam

...Petitioner

Vs

1. The Chief Engineer
Construction and Maintenance
Highways Department,
Chepauk, Chennai
2. The District Collector,
Namakkal District
Namakkal.
3. The Superintendent Engineer,
Construction and Maintenance,
Highways department,
Salem Division, Salem.
4. The Divisional Engineer,
Construction and Maintenance,
Highways Department,
Namakkal
5. The Commissioner,
Rasipuram Municipality,
Rasipuram, Namakkal District

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.23821/2013/H6 dated 02.09.2013 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to put up a flyover bridge or subway for the convenient usage at Chandrasekarapuram (Agraharam) Village, Rasipuram Taluk, Namakkal District by considering the petitioner's representation dated 17.09.2013.

For Petitioner :Mr.R.Jayaprakash

For Respondent :Mr.V.Jayaprakash Narayanan
Spl.Government Pleader

O R D E R

Heard Mr.R.Jayaprakash, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents.

2. The petitioner seeks for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent and quash the same and direct the respondents to put up a flyover bridge for the convenient usage of Chandrasekarapuram (Agraharam) Village by considering the petitioner's representation.

3.The petitioner has filed this Writ Petition in his individual capacity stating that the culvert, which has currently been established is very narrow and the villagers are unable to take bullock-carts and tractor through the culvert and therefore the culvert has to be widened.

4.The respondents have filed counter affidavit along with sketch and photographs.

5.It is seen that the bridge work is completely over and the culvert has been established and it is 2mm RCC culvert across Rasipuram by-pass road near to the Chandrasekarapuram village. From the sketch it is seen that the petitioner's house is situated at 130 meters from the culvert. Apart from that there is open service road adjoining the by-pass road and there is other district road, which is a Government ODR road measuring width of 3.75 meters on the southern side of the petitioner's house and the Government ODR Road is situated within 10 meters from the petitioner's house. That apart within a distance of 300 meters and 5.50 meters, there is a Government ODR road leading to Rasipuram and it is also situated very near to the petitioner's house. Further, in the counter affidavit it has been stated that there is no other person of the area objected the width of the culvert.

6.It is to be pointed out that the Highways Department and their Engineers are the competent persons to decide as to what would be the nature of construction to be put up, the width of the service road or the culvert. These issues are to be left to the best discussion of the experts. More so when there is no allegation of malafide.

7.From the sketch provided by the respondent, it is evidently clear that the interest of the persons of Chandrasekarapuram village has been sufficiently safeguarded, since there is a service road, Government ODR road measuring 3.5 mm width, apart from that there is ODR road measuring 5.5 mm width and there is culvert.

8.In such circumstances, the petitioner has not made out any case for exercising the power of the Jurisdiction of this Court under Article 226 Constitution of India and the Writ Petition fails and the same is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

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Highways Department,
Namakkal
5. The Commissioner,
Rasipuram Municipality,
Rasipuram, Namakkal District

+ 1 cc to Mr. R. Jayaprakash, Advocate SR.11208
+ 1 cc the Government Pleader Sr. 11272

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RJ(CO)
Eu 16.03.15