



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) No.22522 of 2017

S.Jeyabalan

: Petitioner

.vs.

1. The District Collector,
Tuticorin District,
Tuticorin.

2. The Tahsildar,
Sri Vaigundam Taluk,
Tuticorin District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents not to demolish or damage the open surface bridge situated in Thamiraparani river on the south of Eral town which is joining Eral town and Vanathirupathy village and other villages, on the basis of the Representation given by the Petitioner to the Respondents dated 05.08.2017.

For Petitioners : Mr.M.R.S.Prabhu
For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in directing the Respondents not to demolish or damage the 'Open Surface Bridge' situated in 'Thamiraparani River' on the south of Eral town, which is joining Eral town and Vanathirupathy village and other villages, on the basis of the Representation given by the Petitioner to the Respondents dated 05.08.2017.



3. By consent, the main Writ Petition itself is taken up for final disposal.

4. According to the Petitioner, Eral town is having population of more than 35,000 people. The adjoining villages of Eral town are Rajapathy, Kurumboor, Vanathirupathy, Kurangani, Thenthiruperai etc. The width of 'Thamiraparani River', which is running by the side of Eral town would be around 650 metres. Thamiraparani River is running south of Eral town. In between Eral town and the above said villages, the 'Thamiraparani River' is running West to East. From Eral town to reach the afore stated villages, a 'Open Surface Bridge' was constructed 25 years ago and below the said Bridge, several big cement pipes having width of 1 ½ metres were embedded for passing of river water through these pipes. On the east, 7 kms., away from the Bridge, 'Bay of Bengal' sea is situated and the river is finally joining there.

5. The stand of the Petitioner is that the distance between the 'Old Bridge' and the 'High Level Bridge' would be around 2 ½ metres. Whenever construction is made in the sand, the strength of the construction could be higher if another construction is available by the side. As the two Bridges are side by side, one Bridge is supporting the other. Because of the construction of 'High Level Bridge', if the 'Old Bridge' is demolished or damaged, the strength of 'High Level Bridge' would suffer irreparably and thereby the safety of people, who are travelling through the 'High Level Bridge' would be affected certainly. The Engineers, who constructed the High Level Bridge thought it fit to construct by the side of Old Bridge as it would be more strengthen for High Level Bridge etc.

6. The grievance of the Petitioner is that the Respondents are now endeavouring to damage the 'Old Bridge' for taking water through the Bridge much below the pipes already meant for it. Therefore, they are destructing the Bridge as the water level became very low. Already, several pipes were embedded under the 'Road Level Bridge'. If much below the embedded pipes, the construction of the Bridge is damaged for taking water from West to East, the strength of 'Old Bridge' and 'High Level Bridge' would be diminished beyond measure. As a result, the residents in and around Eral town would suffer irreparably.

7. In fact, the Second Respondent in the first week of August, 2017, personally visited the place and he was accompanied by several Officials including the concerned Village Administrative Officer and others. Two JCB Machines were brought to the spot and the Second Respondent/Tahsildar, Srivaigundam Taluk, Tuticorin District had directed his subordinates to complete the destruction of certain places in the 'Old Bridge', so that, water could be



brought from West to East. Several workers and labourers were brought for destruction. They had also destructed in one place of Bridge for taking water. However, due to the timely intervention of several respectable persons and residents of Eral town, the destruction work was suddenly stopped. The Tahsildar informed the residents that the 'Open Surface Bridge' was not necessary because of construction of 'High Level Bridge' and this is not correct and that the Respondents would come at any time and destruct the Bridge.

8. At this stage, the Learned Counsel for the Petitioner points out that the Special Chief Engineer of Public Works Department had given opinion on 08.08.2017 that destruction of 'Old Bridge' would certainly affect the strength of 'High Level Bridge' constructed by its side and then, he visited the spot and at the request of the villagers and gave opinion. Apart from that, the Petitioner had addressed a Representation to Respondent Nos.1 and 2 on 04.08.2017 and he had also sent another Representation on 05.08.2017 to Respondent Nos.1 and 2 by RPAD on 11.08.2017. Likewise, similar Representations were submitted by Eral Merchants Association to the Respondents on 04.08.2017. Since the Respondents have not heeded to the request of the Petitioner and others, the Petitioner has filed the present Writ Petition.

9. Admittedly, the Representation of the Petitioner dated 05.08.2017 addressed to Respondent Nos.1 and 2 was actually sent on 11.08.2017 through RPAD, which was received on 16.08.2017 by the office of the First Respondent/District Collector, Tuticorin District, Tuticorin. However, there is no proof for the First Representation of the Petitioner dated 04.08.2017.

10. Be that as it may, considering the fact that the Petitioner's subsequent Representation dated 05.08.2017 addressed to Respondent Nos.1 and 2 is pending as on date, without any progression in the subject matter in issue, at this stage, this Court without delving deep into the merits and contents of the Representation so made and also not expressing any opinion one way or other, in the interest of justice, equity, fair play, directs the Second Respondent to look into the Representation of the Petitioner dated 05.08.2017, within a period of ten days from the date of receipt of a copy of this order. Thereafter, if the Second Respondent finds any substance in the Representation of the Petitioner dated 05.08.2017, then, he is to pass a reasoned speaking order on merits in the subject matter in issue, of course, after providing adequate opportunity of hearing to the Petitioner and others concerned, in any event, within a period of four weeks thereafter. It is open to the Petitioner to raise all ~~Service results can be checked~~ legal pleas before the Second Respondent and to seek redressal of his grievances in the manner known to Law and in accordance with Law.



11. It cannot be gainsaid that the Petitioner can produce necessary documents/evidence before the Second Respondent, who shall take into account of the same (if produced/filed before him) while passing final orders in question.

12. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tuticorin District,
Tuticorin.

2. The Tahsildar,
Sri Vaigundam Taluk,
Tuticorin District.

+1cc to Mr.M.R.S.Prabhu, Advocate Sr.No.91904

+1cc to Spl.Government Pleader Sr.No.92118

PM

VB/SKN/RSK/SAR3/27/12/2017/4P/5C

**ORDER MADE IN
W.P. (MD) No.22522 of 2017
08.12.2017**