

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.23005 of 2018

P.Loganathan

... Petitioner

Vs

1. The District Collector,
Thiruvallur District,
Thiruvallur 602 001.
2. The Tahsildar,
Avadi Taluk Office,
Near Railway Station,
Avadi, Chennai - 600 054.
3. The Revenue Divisional Officer,
Avadi Taluk Office,
Near Railway Station,
Avadi, Chennai 600 054.
4. The Commissioner,
Avadi Municipality,
New Military Road,
Avadi, Chennai - 600 054.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Mandamus, directing the respondents to consider the Petitioner's Representation dated 31.07.2018 to inspect the Petitioner's Property and remove the storm water canal running through the Property within a time frame as prescribed by this Hon'ble Court.

For Petitioner : Mr.B.Deepak Narayanan

For Respondents : Mr.R.Govindasamy,
Spl. G.P., for R1 to R3.

: Mr.P.Srinivas,
Standing Counsel for R4.

O R D E R

This writ petition has been filed seeking direction to the respondents to remove the storm water canal running through the petitioner's property.

2. The grievance of the petitioner is that, he is the owner of the property in Old Survey No.167/3(part), Sorancherry Madura Sekkadu Village, Block No.10, Ward F, Patta No.104/18, Avadi Taluk, Tiruvallur District, and a storm water drainage is passing through the adjacent property, which is a Government Waste Land, situated at Survey No.167/1, towards the nearby pond called "Chunnambu Kulam", which is situated in the north side of the petitioner's property. Now, a channel has been created in the petitioner's property, and the storm water has been diverted through the channel in the petitioner's property in stead of the original canal, which was situated in No.167/1. Hence, he made several representations to the authorities to close the channel . Since no action has been taken by the respondents, the present writ petition has been filed.

3. Today, the second respondent Tahsildar, Avadi Taluk, filed a status report stating that the petitioner is the owner of the property in Old Survey No.167/3 of the New Town Survey No.10. Survey No.167/1, is a Government Poramboke and there is a small tank in the western side of the petitioner's property, and the Government Poramboke land in Survey No.167/1, is situated on the eastern side of the Government Poramboke land. As the Survey No.167/1 is situated in elevated position, and the petitioner's land is a lower level, the storm water flows naturally from the Government Poramboke land to the petitioner's property and the water flow to the tank through the petitioner's property. It is only a natural flow and the respondents did not create any water channel through the petitioner's land.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3 and the Standing Counsel appearing for the fourth respondent and perused the materials available on records carefully.

5. Considering the fact that now the respondents submitted that they have not constructed any channel in the petitioner's property and it is only a natural flow from the elevated land, that belongs to the Government to the petitioner's land, it can be prevented by erecting a wall from the abutting land in Survey NO.167/1, which is a Government Poramboke land.

6. The learned counsel appearing for the petitioner submitted that the petitioner is now ready and willing to

construct a wall. But the respondents are not permitting him to construct the wall.

7. Considering the facts and circumstances, the petitioner being the owner of the property in Survey No.167/3f, has every right to construct a wall to prevent the storm water flow into his land. In such circumstances, the petitioner is permitted to put up a wall in his property abutting the Government Poramboke land in Survey No.167/1, thereby preventing the water flow into his land, and the respondents are directed not to prevent the petitioner from constructing any wall in his property.

8. With the above directions, this writ petition is disposed of. No costs.

mrp

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Thiruvallur District,
Thiruvallur 602 001.
2. The Tahsildar,
Avadi Taluk Office,
Near Railway Station,
Avadi, Chennai - 600 054.
3. The Revenue Divisional Officer,
Avadi Taluk Office,
Near Railway Station,
Avadi, Chennai 600 054.
4. The Commissioner,
Avadi Municipality,
New Military Road,
Avadi, Chennai - 600 054.

+1cc to Mr.Deepak Narayanan, Advocate, S.R.No.77980
+1cc to the Government Pleader, S.R.No.78039

W.P.No.23005 of 2018

gj(CO)
kak(28/02/2019)