

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Writ Petition No.14561 of 2017

K.Ramesh

..... Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. By its Secretary,
Public Works Department,
Fort St. George, Chennai - 600 009.
2. The Executive Engineer,
Lower Palar Basin Division,
Public Works Department,
Kanchipuram - 631 501.
3. The Assistant Executive Engineer,
Lower Palar Basin Sub-Division,
Public Works Department,
Chengalpattu - 603 002
Kancheepuram District.
4. The District Collector,
District Collectorate,
Kancheepuram District.
5. The Revenue Divisional Officer,
Chengalpattu, Kancheepuram District.
6. The Tahsildar, Chengalpattu,
Kancheepuram District.
7. The Assistant Director,
Animal Husbandary Department,
Chengalpattu, Kancheepuram District.
8. The Village Administrative Officer,
Village No.74, Pulipakkam Village,
Chengalpattu - 603 002,
Kancheepuram District.

9. The Village Administrative Officer,
Thimmavaram Village,
Athur B Block,
Chengalpattu, Kancheepuram District.

10.Smt.P.Pathmavathi

11.Mr.K.Jeganathan

.... Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of writ of mandamus directing the 4th respondent to provide a personal hearing and to receive the documents under the custody of the petitioner and to expedite the pendency enquiry regarding the illegal construction in the form of over bridge constructed by respondents 10 and 11 herein over the water body of "Niinjal Maduvu" comprised in Survey No.288 of Puilipakkam Village, Chengalpattu Taluk, Kancheepuram District as per revenue records, survey No.1130 of Athur Village, Kancheepuram District and to ensure the free flow of water in the channel on the consideration of the petitioner's representation dated 02.12.2016 made to the 4th respondent herein.

For Petitioner : Mr.G.Thiyagu

For Respondents: Mr.Jayaprakash Narayanan
G.P. - R1 to R9

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

The petitioner K.Ramesh, son of Krishnan has filed this Writ Petition in this Court on 03.04.2017 with the following prayer:

'To issue a Writ of Mandamus directing the 4th respondent to provide a personal hearing and to receive the documents under the custody of the petitioner and to expedite the pendency enquiry regarding the illegal construction in the form of over bridge constructed by respondents 10 and 11 herein over the water body of "Niinjal Maduvu" comprised in Survey No.288 of Puilipakkam Village, Chengalpattu Taluk, Kancheepuram District as per revenue records, survey No.1130 of Athur Village, Kancheepuram District and to ensure the free flow of water in the channel on the consideration of the

petitioner's representation dated 02.12.2016 made to the 4th respondent herein.'

2. The respondents have filed a counter to this supported by an affidavit dated 10.08.2017 and inter alia, they have submitted that the construction of Bridge in question in S.No.1130 of Attur Village, Chengalpattu Taluk of Kancheepuram District (as per revenue records S.No.288 of Pulipakkam Village) across the main water course, i.e., Neenjal maduvu and construction of Culvert (connecting bridge) through the water channel located in S.No.252/1 were carried out after getting "Technical No Objection" of the Public Works Department and there is no encroachment of water body as alleged by the petitioner. The Bridge in question has been constructed by the respondents only after following the norms and procedures in the year 2008.

3. It is brought to our notice that earlier, for the similar purpose, another petitioner one Mr.J.Raja Ram had approached this Court by way of Writ Petition in W.P.No.7908 of 2015, which came to be disposed of by a Coordinate Bench of this Court on 23.03.2015. The prayer made in that Writ Petition as well as the operative portion of the order passed by the Coordinate Bench are quoted below for ready reference:

PRAYER: Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 9 herein to demolish the illegal construction in the guise of over bridge made by the respondents 10 and 11 herein over the water body comprised in Survey No.288 of Pulipakkam Village, Chengalpattu Taluk, Kancheepuram District as per Revenue record and Survey No.1130 of Athur Village, Kancheepuram District as per the second respondent department enabling free flow of water and further to remove the encroachment made by the respondents 10 and 11 herein in the water body namely water channel situated in Survey No.252/1, 252/3 and 252/5 of Pulipakkam Village, Chengalpattu Taluk, Kancheepuram District on the basis of the representation, dated 29.12.2014 made to the first respondent herein.

Order

'5. Considering the facts and circumstances of the case and since the matter is relating to a public cause, we are of the view that, without going into the merits of the case, a direction can be given to the second respondent to dispose of the representation, dated 29.12.2014 on merits and in accordance with law after affording an opportunity of being heard within a period of four weeks from

the date of receipt of a copy of this order. The petition is ordered, accordingly. No costs. Connected M.P. is closed.'

4. By way of a rejoinder filed by the petitioner today, learned counsel for the petitioner urged before us that no soil test prior to or after the construction of the Bridge in question has been undertaken, for which he has obtained the information through an application made under Right to Information Act, 2015.

5. Having heard the learned counsel for the petitioner and the learned Government Pleader for the respondents, we are of the view that in view of the construction of the Bridge having been already undertaken and completed by the respondents in 2008, the grievance now made by the petitioner in the present Writ Petition, which we feel is of a repetitive nature, is rather infructuous and, therefore, we close this Writ Petition with a liberty to the petitioner to approach the concerned authority of the respondents Department by way of a fresh representation within a period of four (4) weeks from today, which we expect the concerned authority to dispose of by way of a speaking order after giving opportunity to the petitioner within a period of four (4) weeks thereafter. No costs.

sl

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
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Fort St. George, Chennai - 600 009.
2. The Executive Engineer,
Lower Palar Basin Division,
Public Works Department,
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RK (CO)
KAK (22/01/2019)



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