

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.27739/2019 & WMP.Nos.27266, 27669, 27273 & 27976/2019

1.Muthu Avinashiappan
2.M.R.Raviraj
3.Arul Prakash
4.Balachandran
5.M.S.Muthukumar
6.Ponnusamy .. Petitioners

Versus

1.The Secretary to Government
Highways Department
Fort St George
Chennai.
2.The District Collector
Tiruppur District, Tiruppur.
3.The Assistant Divisional Engineer
Highways [C&M], Avinashi,
Tiruppur.
4.K.M.Muthusamy
5.K.N.Subramaniam
6.P.Saminathan
7.N.Sakthivel
8.A.K.Velusamy .. Respondents
** RR4 to 8 are impleaded as per the order dated
25.09.2019 made in WMP.No.27976/2019

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents from laying a new road instead of expanding the already existing road from Madathupalayam Makaliyamman Temple to Semmandampalayam situated in Madathupalayam Village, Avinashi, Tiruppur.

For Petitioner : Mr.K.S.Karthik Raja

For RR 1 to 3 : Mr.R.Udhayakumar, AGP

For RR 4 to 8 : Ms.Hemalatha for
Mr.C.Prakasam

ORDER

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

- (1) By consent, the writ petition, is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader appears on behalf of the respondents 1 to 3 and Ms.Hemalatha, learned counsel accepts notice on behalf of the newly impleaded respondents/respondents 4 to 8.
- (2) The writ petition, styled as a Public Interest Litigation, is filed by the petitioner who is also a landlord, doing agricultural operations and he also owns lands in Madathupalayam Village.
- (3) It is the case of the petitioner that in his village, adjacent to his land, there is a water channel which remains dry during summer season and during rainy season, huge quantity water used to flow through that water channel and at that time, it used to cater the needs of agriculturists, whose lands are located nearby to the said water channel. It is further averred by the petitioner that adjacent to the water channel, there exists a burial ground on the Eastern side, which is being used by people belonging to Arundhadiyar Community and there is also yet another burial ground used by other community people and adjacent to the said burial ground, on the western side, there is a pucca road in existence which connects Semandampalayam and Karukkanpalayam.
- (4) The petitioner would further aver that recently, the 3rd respondent proposed to expand 15 feet single road into a double road and taking advantage of the said proposal, the 2nd respondent has marked the above said water channel as area for laying the road by planting stones painted in yellow.
- (5) It is the specific case of the petitioner that in the event of the new road being laid through the said water channel, it will definitely cut through the water channel and impede or affect the free flow of water and as a consequence, the agriculturists including the petitioner, would be gravely affected and they would be prevented from carrying on agricultural operations also. The residents of the locality had also submitted representations dated 07.06.2019 and 20.06.2019 and the 3rd respondent has not responded to the said representations and however, steps are being taken to lay the new road across the water channel and therefore, the petitioner is constrained to approach this Court, by filing this writ petition, styled as Public Interest Litigation.
- (6) The learned counsel for the petitioner has drawn the attention of this Court to the information furnished by the 3rd respondent dated 14.08.2019 in K.No.302/2019/,tm under the Right to Information Act, 2005, and would submit that as per the information furnished, there was no proposal to put up a new road across the said water channel and for obvious

reasons, now attempts are being made to lay a new road across the water channel and hence, prays for appropriate orders.

- (7) Per contra, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents 1 to 4 has drawn the attention of this Court to the Village Plan and would submit that admittedly, the so-called water channel projected by the petitioner, as per the Revenue Records, is classified only as 'Cart Track' and new road is being laid to straighten the approach and further pointed out that the petitioner himself is one of the representees who had submitted the representation for laying of the new road and for the reasons best known to him, had instigated the local residents and opposing laying of the road and therefore, prays for dismissal of the writ petition.
- (8) Ms. Hemalatha, learned counsel appearing for the newly impleaded respondents would submit that on account of frequent accidents due to curvature of the road, representation was given to straighten the road and accordingly, a new road is being laid and further, pointed out that in the even of laying of the new road, the value of the petitioner's land would come down and therefore, with an oblique and mala fide motive only, the petitioner has filed the present writ petition and prays for dismissal of the same.
- (9) This Court has considered the rival submissions made on either side and also perused the materials placed before it.
- (10) Even as per the averment of the petitioner made in paragraph No.8 of the affidavit filed in support of the writ petition, the so-called water channel has not been classified as a water channel as per the Revenue Records and it is also the stand of the petitioner in the said paragraph that is also under apprehension that the Revenue Officials may blindly rely on the Field Map already in existence without inspecting the lands afresh and therefore, prays for conducting of survey to find out the real fact.
- (11) In the light of the stand taken by the petitioner in paragraph No.8 of the affidavit, this Court is having its own doubt as to the existence of the water channel and it is the categorical submission of the learned Additional Government Pleader appearing for the official respondents that the so-called water channel is classified as Cart Track only. Even according to the petitioner, only during rainy season, water used to flow on the so-called water channel.
- (12) Considering the arguments advanced by the learned Additional Government Pleader appearing for the official respondents coupled with the stand taken by the petitioner in paragraph No.8 of the affidavit and that the road is being laid to avoid the curvature and to prevent accidents, this Court is not in a position to come to the aid of the petitioner.

(13) It is also to be noted at this juncture that laying of road to avoid accidents, is also a Policy Decision and unless there are tenable materials placed before this Court as to the mala fide exercise of such power or arbitrariness on the part of the concerned officials, this Court cannot, normally interfere with such a decision taken by the official respondents.

(14) In the considered opinion of the Court, the writ petition lacks merits and deserves dismissal.

(15) In the result, the writ petition stands dismissed at the admission stage itself. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
Highways Department
Fort St George
Chennai.

2.The District Collector
Tiruppur District, Tiruppur.

3.The Assistant Divisional Engineer
Highways [C&M], Avinashi,
Tiruppur.

+1cc to Mr.C.Prakasam, Advocate SR.83136
+1cc to M/S.K.S.Karthik Raja, Advocate SR.82490
+1cc to the Government Pleader SR.82826

WP.No.27739/2019

RK(CO)

CB(21/11/2019)