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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12423 of 2019

and

W.M.P. (MD) No.9274 of 2019

S.Saraswathi

...Petitioner

Vs.

1.The District Collector,
Dindigul District.

2.The Deputy General Manager,
Project Director cum Implementation Unit,
(NH 209, Oddanchatram Bypass)
Plot No.1, Asihwaryam Heights,
Indira Nagar,
Chennamanaickenpatti Post,
Thadicombu Road, Dindigul - 4.

3.The General Manager,
IVLR Company,
(Project Construction Department),
Railar Nagar,
Koodal Nagar, Madurai 625 018.

...Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents, their men, agents, servants or anybody from constructing a bridge in Survey No.118 of Lakkayankottai Village, Ottanchatram Taluk and consequently direct the respondents not to let the Oodai water on the petitioner's land in Survey No.118 of Lakkayankottai Village, Ottanchatram Taluk.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.Vaishnavi, G.A. for R1

: Mr.C.Arul Vadivel @ Sekar for R2

:No appearance for R3

O R D E R

The prayer in the Writ petition is for a Writ of Mandamus, forbearing the respondents, their men, agents, servants or anybody from constructing a bridge in Survey No.118 at Lakkayankottai Village, Ottanchatram Taluk and consequently direct the respondents not to let the Oodai water on the petitioner's land in Survey No.118 at Lakkayankottai Village, Ottanchatram Taluk.



2. Heard Mr.M.Thirunavukkarasu, learned counsel for the petitioner, Ms.Vaishnavi, learned Government Advocate appearing for the first respondent and Mr.C.Arul Vadivel @ Sekar, learned standing counsel appearing for the 2nd respondent.

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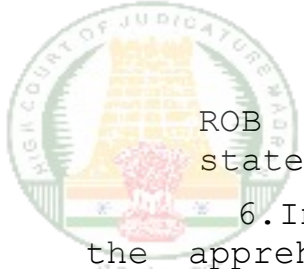
3. The grievance of the petitioner is that, the petitioner's vendor's land has been acquired, which is the adjacent land to the petitioner's land, for the highways purpose, by the respondents 2 and 3 and after acquisition for construction of culvert and after constructing the culvert, the respondents 2 and 3 wanted to let off the water through the patta land belongs to the petitioner and opposing or apprehending the same, he has filed this Writ petition with the aforesaid prayer.

4. Today when the Writ petition is taken up for hearing, the learned standing counsel appearing for the second respondent has submitted that the apprehension of the petitioner has already been cleared by a communication dated 07.06.2019 by the second respondent, which reads thus:

"With reference to your letter cited above, it is informed that the water flow of Vathiyaramma odai is not diverted. The water flow will be allowed through the culvert constructed in the ROB location and against merge with the same Odai through the retaining wall, which is designed in the bridge location and that there will not be any possible to flow the rain water in your lands. Without ascertaining the factual position you have sent the reference cited representation and also filed a Writ Petition W.P.(MD)No.12323 on the file of the High Court of Judicature at Madras, Madurai Bench."

5. The learned counsel appearing for the second respondent relied upon the stand taken by the second respondent in paragraph No.10 of the counter affidavit, which reads thus -

"10. It is submitted that from the reasons stated in paras 7, 8 & 9 the said Vaithyaramma Odai water will not be diverted and the water flow will not pass through the petitioner's land and will not affect the agriculture activities as alleged by the petitioner. Without knowing the factual position, only on presumption petitioner has erroneously stated that the construction of culvert will affect the petitioner's agriculture operations. Further the construction of culvert has been completed in the proper and particular location only and not for the convenience of the contractor as alleged by the petitioner. It is constructed to enable to ensure the flow of Oddai water and to complete the



ROB approach road embankment. Hence, the averment stated in para 2 is not sustainable."

6. In view of the said stand taken by the second respondent, the apprehension of the petitioner is no more available and therefore, the learned standing counsel would submit that the Writ petition can accordingly be disposed of.

7. The said factor is not controverted by the learned counsel for the petitioner and he also very fairly submits that recording the said communication as well as the averments made in paragraph No.10 of the counter affidavit of the 2nd respondent, this Writ petition can be disposed of.

8. In view of the aforesaid position, by recording the communication of the 2nd respondent dated 07.06.2019 as well as the averments at paragraph No.10 of the counter affidavit of the 2nd respondent, no further order is required to be passed in this Writ petition.

9. Accordingly, the same is disposed of. No costs. Consequently, connected W.M.P. is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

To

The District Collector,
Dindigul District.

+1 CC to SPL GP SR-73505.

+1 CC to Mr.C.ARUL VADIVEL @SEKAR, Advocate SR-73329.

+1 CC to Mr.M.THIRUNAVUKKARASU, Advocate SR-73298.

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03.07.2019

CS (24.07.2019) 3P 5C