

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6967 of 2020

and

WMP Nos.8313, 8315 and 8318 of 2020

V. Rajendran Petitioner

-vs-

1. The District Collector,
Chengleput District,
Chengleput
(Earlier the District Collector,) Kanchipuram District).
2. The Block Development Officer,
Village Panchayat,
Kattankulathur Panchayat Union,
Chengleput District.
3. The Assistant Engineer,
Rural Development,
Kattankulathur,
Chengleput District.
4. Vikas Mandra Public School,
Rep by its Correspondent,
V. Prabhu,
Bajanai Koil Street,
Anjur - 603 204,
Mahindra World City,
Chengleput District. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 12.11.2019 made in Na.Ka.No.1690/2019/A2/Oo.E(Oo) passed by the first respondent, quash the same and consequently direct the respondents to dismantle the newly formed road and restore the Greenery 40 in the OSR to its original condition by planting the trees as it stood.

For Petitioner

: Mr.N. Manokaran

For Respondents 1 to
R3

Mr.V.Jayaprakash
Narayanan,
State Government Pleader

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

We have heard learned counsel for the petitioner at length.

2. This writ petition appears to have been designed for the purpose of virtually impeding developmental work in a village, where, the Government has come up with a proposal for constructing a Community Hall and there is also a proposal to connect the approach road with National Highways No.45.

3. Earlier, the very same petitioner filed Writ Petition No.35987 of 2019, where, the prayer made was to the following effect:-

" It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, directing the respondents to consider the representation of the Villagers dated 19.11.2019 and 2.12.2019, to utilise the money of the Panchayat Union General Funds for constructing the community hall in the place already allotted by MWCL in S.No.269 and repair the already existing roads nearby the Dharkas area and the Anjur Kollamedu which are used by the school children and general public and restore the open space (G40) with plants and thus render justice."

4. This prayer was made in view of the impugned order dated 12.11.2019 that came to be passed by the first respondent, translated copy of which has been brought on record through additional typed set of papers. The order is granting administrative sanction of Rs.72,26,000/- (Rupees Seventy two lakhs twenty six thousand only) for construction of Community Hall at an estimated cost of Rs.50,00,000/- (Rupees fifty lakhs only) and also approach road in Anjur Village at Anjur Panchayat, Kattankolatur Panchayat Union at an estimated cost of Rs.22,26,000/- (Rupees twenty two lakhs twenty six thousand only). The administrative order also narrates about the previous Government Orders applicable and also the estimated report of the Assistant Engineer (Panchayat

Development). The Order dated 12.11.2019 is extracted hereunder:-

"Kancheepuram District, Kattankolathur Panchayat Union, Anjur Panchayat Union Community Hall and Road works towards an estimate of Rs.72,26,000/- (Rs. Seventy two lakhs and twenty six thousand) to undertake from the Panchayat Union General fund and the Block Development Officer (vaoo) and the Assistant Engineer (Panchayat Development) have sent a proposal recommending for an administration sanction with all relevant documents.

The above proposal have been scrutinized for the works mentioned below towards and estimate of Rs.72,26,000/- (Rs. Seventy two lakhs and twenty six thousand) to undertake the work from the Panchayat Union General Fund and hereby permission is granted and orders issued.

Sl.N o.	Name of the Panchayat	Name of the work	Estimate Amount in (Rs.)
1	Anjur	Construction of Community Hall Building in Anjur Panchayat at Kattankolathur Panchayat Union	Rs.50,00,000 /-
2		Providing Approach Road in Anjur Village at Anjur Panchayat, Kattankolathur Panchayat Union	Rs.22,26,000 /-
		Total	Rs.72,26,000 /-

The cost for the above works can be utilised from the Kattankolathur Panchayat Union General Fund and the amount taken should be used for the above work only. The works selected should be given through proper tender and according to the Tamilnadu Transparent Tender Quoting Rule and as per the rules and conditions stated in Tamilnadu Panchayat Act 1994 along with the conditions stipulated below the work can be carried out."

administrative order is clearly designed for the purpose of providing an approach road virtually for private use of the fourth respondent / Vikas Mandra Public School and consequently, the very purpose of setting up of a Community Hall or providing of an approach road is not for any public interest, but has been tailored to suit the interest of the fourth respondent. It is not disputed that the petitioner has filed this Public Interest Litigation in the capacity of a citizen of the village and is also a former Village Head of the village in question. The writ petition, therefore, professes to be in the larger interest of the community contending that the activity which has been generated is only to suit the private interest of the fourth respondent as the said activity is related to a local Member of Parliament.

6. The background, in which, the present writ petition has been filed is the earlier writ petition which came to be instituted where no interim orders were passed and a counter affidavit was filed therein by the respondent State.

7. Instead of pursuing the said writ petition, the present writ petition has been filed with a different prayer for quashing of the order dated 12.11.2019.

8. The counter and an additional counter affidavit filed by the third respondent have been enclosed along with the typed set of papers. The counter affidavit filed in the writ petition leaves no room for doubt that there was a clear contention raised that firstly, it was area No.G40 comprising of Survey No.106 (Part) and Survey No/204 , area of 5 acre 195 cents that was proposed to be utilised to the extent of 4000 sq.ft for constructing Community Hall. In order to proceed for accepting such a proposal as against the earlier proposal over Survey No.269, the petitioner resisted the same by filing a representation. It is the said representation that made the basis for the prayer in the earlier writ petition. In the representation, which is on record, we find that the prayer was that the Community Hall had been proposed over Survey No.269 and for constructing and repairing other roads leading to the village and therefore, the representation indicated rather prayed that the funds should be utilised for constructing Community Hall in Survey No.269 and for developing the roads from Anjur to Dharkas area and Anjur to Kollaimedu.

9. It is therefore clear that the contest has its seeds in the setting up of a Community Hall by the respondents, which were earlier proposed at Survey No.269, which the respondents have now come up contending that the said survey number is a "Pond". It is for this reason that the Community Hall site was re-proposed and accordingly, the consent was obtained from Mahindra World City who were the developers in that area.

10. There is another concern expressed by the petitioner regarding the plantations in this area being uprooted on account of coming up of proposed road. It is urged that the saplings which have already been planted in the agreement made in 2018 between Mahindra World City Developers Limited and the Government was sought to be re-located thereby also disbalancing the environmental concerns of the area that was sought to be preserved and has already been resolved earlier.

11. The letter dated 19.09.2018 is on record and the same is extracted hereunder:-

"In reference 1st cited the Mahindra World City Developers Ltd., a corporate company in its letter has stated that through their company the status of the residents of that area to be upgraded and as a part of that to curtail the pollution in the environment they have launched so many schemes in various places. During the Vardha cyclone in Mahindra World City nearly 4000 trees have been damaged and in the past 5 years they have launched a project for planting 10,00,000 trees in the places mentioned below.

In addition 102.160 acres of open allotted land (OSR) through Mahindra World City Developers Ltd., in Kattankolathur Panchayat Union have given donor settlement deed for Veerapuram, Anjur, Thenmelpakkam, Kunnavakkam and in that area where the donor settlement deed was given to an extent of 102.160 as open allotment place (OSR) through Mahindra World City organisation wants to plant trees and maintain the same.

In continuation of the letter 2nd cited wherein the Block Development Officer (ki.oo) Kattankolathur has stated that to under take the above work the Union Engineer has inspected the places G1, G3, G6, G10, G19, G21, G24, G26, G29, G40, GVI, GVII, GVIII, GX and has given the consent to plant trees at the distance of 10 mts (or) 8 mts. and to water plan and maintain the same with the list of survey nos and the draftplan was submitted.

Hence in 2018-19 under Corporate Social Responsibility (CSR) scheme in Kattankolathur Panchayat Union Veerapuram, Anjur, Thenmelpakkam, Kunnavakkam Panchayats places which was given through donor settlement deed to an extent of land 102.160 acres open allotment place

permission is accorded to Block Development Officer (va.oo) to plant trees and maintain the same through Mahindra World City under the conditions mentioned below.

CONDITIONS:

1. In the year 2018-19 under the scheme Corporate Social Responsibility as per the guideline the works have to be undertaken.
2. As per the Corporate Social Responsibility scheme the works for which NOC is given only to be carried and no other works.
3. The Technical Adviser of Kattankolathur Panchayat Union Engineer have to inspect the work and should give his technical advice and the works to be carried out as per Technical Specifications.
4. Photographs of the works before commencement, progress and completion should be taken and the photographs should be submitted to the District Rural Development Agency.
5. On completion of the work a report has to be submitted and a photograph in A4a size with name Board from the person who have taken this work have to be submitted to the Walajabad Block Development Officer (va.oo) and District Rural Development Agency.
6. The trees saplings should be planted on in the open allotted place (OSR)
7. Each and every saplings should be planted with requisite space.
8. For every 1,00,000 tree saplings, the variety of saplings, numbers, survey no. have to be give in the form of draft plan.
9. The permission will be cancelled without any intimation if the work is carried against rules.
10. While planting the trees that place or property cannot be claimed as right."

12. It appears that when the second proposal came up with regard to the construction of the road, Mahindra World City was called upon to give its consent for the same as the earlier transaction has been carried out as per the consent of the said party. Mahindra World City issued a letter dated 13.12.2019, which is extracted hereunder:-

the District Collector, Kancheepuram's Plantation drive, Mahindra World City Developers Limited (MWCDL) has granted permission to plant saplings in the 102.160 acres OSR area gifted in the Panchayats of Veerapuram, Anjur, Thenmelpakkam and Kunnavakkam and to maintain them.

Accordingly, MWCDL planted saplings in the green area allocated, following the Plantation drive rules as per the O/o the District Collector, Kancheepuram.

Now in the letter 3rd cited above, the Block Development Officer, Kattankulathur Panchayat Union have informed us to safely shift the already planted saplings in G40 area to another location as the soil condition is not good in G40.

We have no objection in your shifting the saplings from G40 to another locations, you may please go ahead with your plans for the same.

Thanking you."

13. It is thus clear that the plantations were taken care of and according to the affidavits that were filed in W.P.No.35987 of 2019, the said planting area was shifted and re-located near the Nursery Area as stated therein, thereby, maintaining the very same plantations that were shifted from the area, which is now sought to be occupied by the open road. Upon comparing the letters dated 19.09.2018 and 13.12.2019, it is evident that the relocation of trees is in respect of only the G40 area, whereas Mahindra World City was permitted to plant trees in several areas. The road is also said to be a public purpose for giving a connectivity and it may also incidentally give connectivity to the fourth respondent area to any other commuters. This, in our opinion, by itself, cannot be construed as a malafide act so as to tailor the entire project for the purpose of fourth respondent. To the contrary, it is the substantial development giving an approach to the Community Development Centre which is also for public purpose, for which, the petitioner himself had earlier filed writ petition.

14. This, in our opinion, fulfills the purpose of public interest and also protects the pond land being utilised for the purpose of setting up of pucca construction in the shape of Community Development Centre.

else, but a clear abuse of process of Court which has been filed deliberately by the petitioner for some ulterior motive. We do not find any public interest involved in it and we, therefore, dismiss the writ petition. The petitioner had already earlier filed a writ petition, as noted above, and in view of this repetitive act, we were proposing to impose cost, but we refrain from doing so. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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Chengleput District,
Chengleput
(Earlier the District Collector,) Kanchipuram District).
2. The Block Development Officer,
Village Panchayat,
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Rural Development,
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+1cc to the Government Pleader, S.R.No. 24496

PPA(CO)
GN(25/06/2020)

W.P.No.6967 of 2020

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