

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.34978 of 2019
and
W.M.P.No.35775 of 2019

R.Sundaramoorthy

...Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
State Highways Department,
Fort St.George,
Chennai - 600009.

2.The Superintending Engineer,
State Highways Department,
No.206,
Jawaharlal Nehru Road,
Jai Nagar,
Arumbakkam,
Chennai - 600106.

3.The Divisional Engineer,
State Highways Department,
No.206,
Jawaharlal Nehru Road,
Jai Nagar,
Arumbakkam,
Chennai - 600106.

4.The Assistant Engineer,
State Highways Department,
Kancheepuram - 631501.

...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from putting wall abating the petitioner's property situated at Survey No.304, 305, 307/1 and 307/2A in Kattavakkam Village without giving proper access to the petitioner's property.

For Petitioner : Mr.R.N.Amarnath
For Respondent : Mrs.P.Rajalakshmi
Additional Government Pleader

O R D E R

The writ petition is filed in the nature of Mandamus, seeking a direction to forbear the respondents from putting wall abetting the petitioner's property situated at Survey Nos.304, 305, 307/1 and 307/2A in Kattavakkam Village without giving proper access to the property of the petitioner.

2.In the affidavit filed in support of this writ petition, it has been stated that the petitioner has purchased 74 cents of land in Survey No.307/2A, by Sale Deed dated 27.03.2008 registered as Document No.2461/2008 in the Sub Registrar Office, Walajabad and 15 cents of land in Survey Nos.304 and 305 respectively and 1.62 acres of land in Survey No.307/1, by a common Sale Deed dated 27.03.2008 registered as Document No.2460/2008 in the same Sub Registrar Office. It is stated that the said land is lying adjacent to the Walajabad and Sunguvar Chathram Highway, which is a State Highway. It is stated that opposite to the said land beyond the Highway, there is a lake.

3.The petitioner claimed that when he visited his property, he found the respondents 2 to 4 planning to construct a wall with a width of 1½ feet and basement of about 4 feet width upto 10 feet height. The petitioner therefore gave a representation on 09.12.2019 seeking access to his property. It is under these circumstances that the writ petition has been filed.

4.This Court had the benefit of the actual facts being presented by the fourth respondent, namely Mr.K.Siva Kumar, The Assistant Division Engineer, State Highways Department, Kancheepuram - 631501, who was present before this Court. Subsequently, further directions were issued by this Court, directing the petitioner and the third respondent, namely The Divisional Engineer, State Highways Department, Chennai, to sit across the table and workout the modalities. Accordingly, a Letter No.02/2018/A1/NH, dated 27.01.2020, issued by V.Ravi, Divisional Engineer, National Highway, who was also present before this Court, has been forwarded to this Court along with the petition. In the letter, it had been stated as follows:

"It is agreed that the retaining wall will be terminated well before the end of property and the petitioner will also be permitted to access his land in 3 places as per standards at his own expenditure.

Also it is accepted that no permanent parapet wall over the existing retaining wall at the said location requested by the petitioner will be constructed. The merit of the above details is well understood by the petitioner."

5.A counter affidavit has been filed by Mr.V.Ravi, Divisional Engineer, National Highway, in which, he has stated as follows:

"5.It is submitted that on 23.01.2020, at the time of hearing, the Hon'ble Court passed an order as follows:

"3. This Court directs the petitioner and the concerned respondent to sit across the table and workout the modalities. The petitioner is requested to go to the office of the third respondent, namely, V.Ravi, The Divisional Engineer, National Highway, Arumbakkam, Chennai - 600106, on 27.01.2020 (Monday) at 11.30 a.m. The third respondent/The Divisional Engineer may discuss with the petitioner and address the grievances of the petitioner."

6.It is submitted that pursuant to the order of the Hon'ble Court, the petitioner appeared before the 3rd respondent office on 27.01.2020. The grievance of the petitioner were heard in details by the respondent and the petitioner has been explained about the site condition and the necessity of constructing the Retaining Wall at the specific location as the road runs in embankment the retaining wall to be constructed.

7.It is humbly submitted that it is agreed the retaining wall will be terminated well before the end of property and the petitioner will also be permitted to access his land in 3 places as per standards at his own expenditure. Also it is accepted that no permanent parapet wall over the existing retaining wall at the said location requested by the petitioner will be constructed. The merit of the above details is well understood by the petitioner."

6.In view of these extracts and in terms of the affidavit, in which, it had been agreed that the retaining wall will be terminated well before the end of property and the petitioner will be permitted to access his land in 3 places as per standards at his own costs and also that no permanent parapet wall over the existing retaining wall will be constructed, the

Writ Petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition is closed.

7.Registry is directed to enclose the plan, which has been forwarded by the respondents, showing the combined sketch of Survey Nos.304, 305, 307/1 and 307/2A, along with this order.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ENCL: Xerox Copy of Combined
Sketch of Survey Nos.304, 305,
307/1, 307/2A

hvk

To

1.The Secretary to Government,
State Highways Department,
Fort St.George, Chennai - 600009.

2.The Superintending Engineer,
State Highways Department,
No.206, Jawaharlal Nehru Road,
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4.The Assistant Engineer,
State Highways Department,
Kancheepuram - 631501.

+1cc to Mr.R.N.Amarnath, Advocate, S.R.No. 17226

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and

W.M.P.No.35775 of 2019

RP(CO)
GN(09/10/2020)