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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 15.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.18817 of 2020

NABARD and Manikandan Nagar Residents Welfare Association
Nanmangalam, Rep. by its President Mr.K.Aranganathan
S/o.Kuppusamy address at No.14 1st cross Street
Bharath Nagar, Madipakkam, Chennai 600 091.
... Petitioner

-Vs-

- 1 The State of Tamil Nadu
Rep. by secretary to the Government
Municipal Administration and Water Supply
Department Fort St. George Secretariat
Chennai 600 009.
- 2 The State of Tamil Nadu
Rep. by secretary to the Government Public
Works Department Fort St.George
Secretariat Chennai 600 009.
- 3 The Tahsildar
Tambaram Taluk Office GST Road Tambaram
Chennai 600045.
- 4 The Member/ Secretary
CMDA Egmore Chennai 600008.
- 5 The Commissioner
St . Thomas Mount Panchayat Union
Chitlapakkam Chennai 600064.
- 6 The Executive Officer
Nanmangalam Panchayat Office Elumalai Road
Nanmangalam Chennai 600 117.
- 7 The Commissioner
Pallavaram Municipality Pallavaram
Chennai 600043.
- 8 The Chief Engineer (General)
Public Works Department Office Chepauk
Chennai 600005.



9 The Chief Engineer (Operation and Maintenance)
Water Resources
Organization Public Works Department
Chepuak Chennai 600005.

10 The Executive Engineer
Public Works Department Office Pallavaram
Municipality office Complex Building
Chrompet Chennai 600044. .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to restore the 20 feet wide access road to survey No.179/1-B (Manikandan Nagar) and survey Nos.204/1 204/2 and 205/1 (Nabard Nagar) Nanmangalam Village St.Thomas Mount Panchayat Union Tambaram Taluk kancheepuram District and now Chengalpattu District by constructing a bridge / culvert over the 80 feet wide drain and complete the access through the open space in the Sewerage Treatment Plant which is located in keelkattalai Village.

For Petitioner : Mr.Perumbulavil Radhakrishnan

For Respondents: Mr.NRR Arun Natarajan
Special Government Pleader
- for RR 1, 3 and 8 to 10

Mr.P.Srinivas, Standing Counsel
- for RR 2 & 7

Mrs.Veena Suresh, Standing Counsel
- for R4

Mr.K.S.Suresh, Standing Counsel
- for RR 5 and 6

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to restore the 20 feet wide access road to survey No.179.1-B (Manikandan Nagar) and survey Nos.204/1 204/2 and 205/1 (NABARD Nagar) Nanmangalam Village St.Thomas Mount Panchayat Union Tambaram Taluk kancheepuram District and now Chengalpattu District by constructing a bridge / culvert over the 80 feet wide drain and complete the access through the open space in the Sewerage Treatment Plant which is located in keelkattalai Village.

2. The petitioner purchased the lands for residential houses in Nanmangalam village at St.Thomas Mount Panchayat Union, Tambaram Taluk, based on the approval granted to Sub-



Division house sites in S.Nos.204/1, 204/2 and 205/1 being NABARD Nagar and S.No.179/1-B being Manikandan Nagar, both of Nanmangalam Village.

3. The residents of the two approved layouts formed a residents association and the President of the residents association filed the affidavit in support of the writ petition stating that the NABARD Nagar is located in Sub-Division Survey Nos.204/1, 204/2 and 205/1, was approved by the Nanmangalam 1st Grade Panchayat on 27.02.2008 and Manikandan Nagar located in New Survey No.179/1-B was approved by the Nanmangalam 1st Grade Panchayat on 05.07.2006. According to the petitioner, the said approval clearly demarcated access and ingress to these layouts which are placed lineally east and west, through a 20 feet wide road connecting to an existing 30 feet wide road, leading to Pallavaram-Thoraipakkam Radial Road and Medavakkam Main Road.

4. In this context, it is the further case of the petitioner that, the 20 feet road, even though according to the petitioner has been approved as per the approved layout, the same has been blocked or prevented by the respondents especially the sixth and seventh respondents and in respect of a channel which crosses in between the 20 feet wide road, which is in dispute, the eighth respondent should be directed to construct a bridge enabling the members of the petitioner association to have direct access as stated above and in this regard the seventh respondent municipality should also vacate some of the portions of the alleged 20 feet road occupied by them by putting up some shed etc., Therefore, in order to get this relief, the petitioner association has sent various representations at various dates and the same since have not been considered, the petitioner association filed the present writ petition with the aforesaid prayer.

5. Heard Mr.Perumbulavil Radhakrishnan, learned counsel for the petitioner, who, having relied upon the layout plan approved by the Extension Officer (Planning) of the St.Thomas Mount Panchayat Union dated 05.06.2006 as well as the President of Nanmangalam Panchayat Union on 05.07.2006 claimed that, while approving the said layout plan, in the layout plan itself, the existing 20 feet wide road had been shown as if it is connecting the NABARD Nagar and therefore, the said road since has already been in existence even prior to the members of the petitioner association purchasing the plots, the same should be restored and must be put in use for the general public especially the members of the petitioner association.

6. However, neither the seventh respondent Municipality nor the sixth respondent Panchayat Union have come out to redress the grievance of the petitioner association by clearing the 20 feet wide road to have a direct access to the NABARD Nagar and in this regard, the Public Works Department also should put their hands by constructing a small culvert in



the alleged 20 feet wide road, as in between there is a channel crossing, connecting with the nearby lake. Therefore, these are the civic amenities to be undertaken by the sixth, seventh and eighth respondents jointly so that the members of the petitioner association who are having residential plots in the Nagar concerned would have direct access to the connecting main roads like 200 Feet Road as well as Medavakkam Main Road etc., Therefore, a direction by way of Mandamus can be issued to these respondents to do the needful to restore the 20 Feet access road to the Nagar of the petitioner concerned within a time frame and that becomes inevitable because it is the only access that is available to the petitioner's Nagar to have easy access to the main road.

7. Per contra, Mr.P.Srinivas, learned Standing Counsel appearing for the seventh respondent Municipality as well as Mr.K.S.Suresh, learned Standing Counsel appearing for the sixth respondent and the other Government counsel appearing for the other respondents would submit that, insofar as the plan approval shown by the petitioner dated 05.06.2006 is concerned, where only four plots have been approved and that is no way connected with the alleged 20 feet wide road as claimed by the petitioner. The 20 feet wide road shown in the said approved map was never existing and this can be evidenced from the very additional typed set of documents filed by the petitioner, wherein the petitioner themselves have given the expanded map with regard to the alleged 20 feet wide road, which would clearly demonstrate that the alleged 20 feet road in front of NABARD Nagar is not continuing, as it is stopped nearby the channel which is connecting the nearby lake. Therefore, across the channel there could not have been any 20 feet wide road to have access to the NABARD Nagar. That apart, even in the said area, it is the exclusive land of the seventh respondent Municipality where the Municipality is already having a shed in connection with the sewerage plant, which is located in the adjacent land.

8. Therefore, citing this map filed by the petitioner themselves, the learned counsel for the respondents would contend that, there has never been a 20 feet wide access road as claimed by the petitioner and this is proved even in the map filed by the petitioner, wherein it is clear that there is a channel connecting the lake and therefore when there is a channel, there could not have been any access road ever at any point time and therefore, the claim made by the petitioner is without any records.

9. Learned counsel for the respondents would further submit that, the alleged 20 feet wide road as claimed by the petitioner has never been entrusted as a road either to the sixth respondent Panchayat or the seventh respondent Municipality. When that being so, under the relevant provisions of the District Municipalities Act as well as the Tamil Nadu Panchayat Act, the said portion of the land claimed



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by the petitioner as a 20 feet road can never be recognized as a public road for the purpose of maintaining the same. Therefore, the learned counsel for the respondents would contend that, the claim made by the petitioner cannot be acceded to and therefore, the writ petition is liable to be dismissed, they contended.

10. I have heard the submissions made by the learned counsel appearing on either side and have perused the materials placed on record.

11. Though it is the claim of the petitioner association that, at the time of approval of a nagar called NABARD Nagar, there has been an area shown as 20 feet wide road and that has also been approved by the Panchayat Union, whether the Panchayat Union has approved the road or not has to be ascertained, as even in the rough sketch filed by the petitioners, only a small portion was shown as 20 feet wide road abutting the NABARD Nagar. However, that abruptly ends with the channel which is connected to a nearby lake. Therefore, across the channel unless there is a bridge or a culvert already made, it cannot be construed prima facie that the said portion has been used as an access road. Moreover, beyond the channel area, the portion is marked in the petitioner's map as if it continues as 20 feet road connecting with the next 30 feet road where there is a shed and an empty land which is adjacent to the sewerage plant of the seventh respondent Municipality and it is a definite case of the seventh respondent Municipality that those portions also belongs to the Municipality.

12. When that being so, on a perusal of the documents, prima facie this Court feels that, first the petitioner has to establish that there has been a road 20 feet wide, which was in existence even prior to the forming of the NABARD Nagar and that road has already been formed and was put in use and had been continuously in existence at the time of approval of the said NABARD Nagar. In this regard, the authorities concerned viz., the Public Works Department who are incharge of the channel connecting the lake as well as the seventh respondent Municipality, who claims that large portion of the land which is claimed as 20 feet road belongs to them also and they are also one of the claiming party. Therefore, when there is a rival claim made in respect of the land in question, which is claimed by the petitioner as a 20 feet wide existing road, it cannot be construed prima facie by this Court that there has been a 20 feet wide road, which was the only access to the NABARD Nagar and therefore that road should be strengthened and maintained by the local authorities.

13. These aspects can very well be gone into only by the Civil Court, where the parties have to let in evidence to establish their title and in this regard, unless the petitioner approaches the Civil Court by filing an appropriate



suit to establish the easementary right as well as ingress and egress of the petitioner's Nagar viz., NABARD and Manikandan Nagar, through the 20 feet access road as claimed by them, by impleading the necessary parties viz., the Panchayat, Panchayat Union, Municipality, Public Works Department etc., as defendants in the suit and only after establishing such right, the petitioner, if at all they establish such right, can get relief as claimed by them.

14. With these observations, this writ petition is liable to be rejected and accordingly it is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

KST

To

1. The Secretary to the Government,
Municipal Administration and Water Supply
Department, Fort St. George Secretariat,
Chennai 600 009.
2. The Secretary to the Government,
Public Works Department
Fort St. George, Secretariat,
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3. The Tahsildar,
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4. The Member Secretary,
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Water Resources Organization
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10. The Executive Engineer,
Public Works Department Office Pallavaram
Municipality office Complex Building ,
Chrompet, Chennai 600044.

+1cc to Mr.P.Srinivas, Advocate SR.No.58816

+1cc to Mrs.Veena Suresh, Advocate SR.No.58430

+1cc to Mr.K.S.Suresh, Advocate SR.No.58679

+1cc to Mr.P.Paul Selvam, Advocate SR.No.58807

+1cc to Government Pleader SR.No.59023

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SSV(CO)
GMY(06/12/2021)