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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.19861of 2020

T.R. Narasimhan

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai- 600 009.
2. The District Collector,
Tiruvallur District,
First Floor, Collectorate, Tiruvallur - 602 001.
3. The Tahsildar,
Madhavaram Taluk, Chennai District,
Gandhi Nagar Main Road, Balaji Nagar, Madhavaram,
Puzhal, Chennai - 600 066.
4. The Tahsildar, Mambalam Taluk Office,
(Previously Tahsildar, Madavaram Taluk),
60 Feet Road, West Jaffer Khanpet,
Chennai - 600 083.
5. The Superintending Engineer,
General Construction, Circle-I,
TANTRANSO, 4th Floor, Guindy,
Chennai - 600 032.
6. The Zonal Officer,
Zone-II, Corporation of Chennai.

7. The Executive Engineer,
Zone-II, Corporation of Chennai.
(R-6 and R7 suo motu impleaded vide order
dated 31.08.2021 made in W.P.No.19861 of 2020)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 5 herein to immediately close



down the unauthorizedly built Rain Water Drain from the petitioner's lands comprised in S.No.15/3B2A, (as per patta No.15/26) Plot Nos.16 to 18, Kavithendral Kalyana Sundaram Nagar, Chinnamathur, Chennai - 68.

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For Petitioner	: Mr.K.Prem Kumar.
For RR 1 to 4	: Mr.V.Veluchamy Government Advocate
For R5	: Mr.S.Madhusudanan Standing Counsel
For RR 6 & 7	: Mr.K.Raja Srinivas Senior Standing Counsel

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the respondents 1 to 5 herein to immediately close down the unauthorizedly built Rain Water Drain from the petitioner's lands comprised in S.No.15/3B2A, (as per patta No.15/26), Plot Nos.16 to 18, Kavithendral Kalyana Sundaram Nagar, Chinnamathur, Chennai - 68.

2. According to the petitioner, he purchased the vacant plots bearing Plot Nos.16 to 24 in Kavithendral Kalyanasundaram Nagar, Mathur, Chennai - 68, measuring to a total extent of 20,778 Sq.ft., comprised in Survey No.15/3B2A, as per Patta No.3137, Survey No.15/26, Mathur Village previously Ambattur Taluk, now Madhavaram Taluk, Tiruvallur District, from one (1) Joseph Francis and (2) K.K.George, represented by their Power Agent K.Gopal, by way of registered sale deed vide Document No.11595 of 2007 on the file of Sub Registrar Office, Thiruvotiyur. The subject property is let out for parking of Lorries/Trailers on rent. Subsequently, there are numerous encroachments on the backside (Southern side) of subject property and the encroachments are situated in the lands comprised in S.Nos.15/3B2B, 15/2B2, 13/2B, Mathur Village, Ambattur Taluk and the encroachers have constructed pucca buildings in the above said encroached land. However, the encroached land belongs to the 1st respondent/ Government and the same was handed over to TANTRANSCO/TNEB/5th respondent herein.

3. According to the petitioner, due to the unauthorized construction of buildings on the encroached Government property, every year during the North-East Monsoon season, rain water gets stagnating in and around the encroached houses, in order to drain out the rain water, the Revenue Officials Madhavaram Taluk, used to dig a small canal with a measurement of 3 feet width x 3 feet depth on the North-Eastern corner of petitioner's



property. After the rainy season is over, the petitioner used to close the canal at his own cost. While that being the case, on 18.11.2020, the Tahsildar, Madhavaram Taluk, without prior permission of the petitioner, entered into his property and started to dig a huge canal of 8 feet depth x 5 feet width running from South to North in the middle of the petitioner's property. When the petitioner came to know his knowledge, he requested the Tahsildar not to construct huge Rain Water Drainage in his patta land, because there are a number of lorries and trailers parked on the Eastern side of the petitioner's land, it is impossible to move those vehicles inspite of his objections, the Tahsildar assisted by the local Police Officials, proceeded further and constructed a huge rain water drainage canal in the said property, stating that the 3rd respondent has got necessary orders from the 2nd respondent. Therefore, he gave a representation on 22.11.2020 to the respondents herein requesting them to close down the unauthorisedly built rain water drain from his lands, on receipt of his representation, the respondents have not taken any action on the petitioner's petition. Hence, this petition.

4. The learned Government Advocate appearing for the respondents submitted a status report and map as annexure filed on behalf of the 3rd respondent that the petitioner claims to be the owner of the vacant plots of land bearing plot Nos. 16 to 24 in the aforesaid plots having been purchased by him from (i) Joseph Francis (ii) K.K.George, rep. by their Power Agent K.Gopal by way of registered sale deed, dated 25.10.2021 in Doc.No.11595/2007 on the file of Sub Registrar Office, Thiruvottiyur. Though the canal is reported to have been dug in the petitioner's property without obtaining his permission, it is avowed principle that larger public interest would always prevail over individual. He further submitted that a permanent solution would be arrived at in consultation with the officials of the Greater Chennai Corporation and the Public Works Department in this regard. However, the stagnation of water was drained by digging a canal on the eastern side of S.No.15/3B2A which belongs to the petitioner. But, now the Greater Chennai Corporation Officials are constructing storm water drain connecting the said low lying area in S.No.15 through a storm water drain from the Southern side of S.No.13, running through S.Nos.45, 47 and 49 abutting the 200 feet Manali Enore Express Highway. Subsequently, the storm water drain is nearing to completion. Hence, there won't be any need to dig the land which belongs to the petitioner to drain the water during the rainy season. Apart from, the Greater Chennai Corporation Authorities have been requested to complete the said storm water drain as early as possible and he prayed for dismissal of the writ petition.



5. Heard both side and perused the materials available records.

6. On perusal of the records, it is seen that a complaint on 18.11.2020 from the nearby residents that the water was stagnating in the area and the stagnation of water could not drain automatically, as a portion of the land held by the petitioner was the bottle-neck for draining of stagnated water, a huge canal of 8 feet depth and 5 feet width running from South to North in the property owned by the petitioner herein was dug without his permission. However, over the years, the water is drained only through the petitioner's land in order to arrive at a permanent solution as directed by this Court and the Public Works Department. Moreover, they started to construct a drainage in S.No.13 running through S.Nos.45,17 and 49 abutting the 200 feet Manali Ennore Express Highway. It is also seen that the authorities have stated that the stagnation of water was taken through the canal on the eastern side which belongs to the petitioner and also not constructed the same connecting the low lying area in S.No.15 through a storm water drain from the Southern side of S.No.13. Hence, there won't be any need to dig the land which belongs to the petitioner to drain the water during this rainy season. Besides, the Greater Chennai Corporation authorities have been requested to complete the said storm water drain as early as possible by the Tahsildar, Madahavaram Taluk and the authorities have also given a full map to show that the construction of drain by digging a canal on the eastern side of S.No.15/3B2A and S.No.15 which is running through the Manali Ennore Express Highway. As already stated by the petitioner, the Tahsildar has given an assurance that they are constructing the storm water drain, which is also seen by way of photographs. Hence, this Court is of the considered view that the same shall be maintained by the authorities, if any water is to be diverted in the petitioner's land, it should be done only after following the due process of law. It is also stated by the authorities, the vast extent of lands which are been handed over to TRANTRANSCO/TNEB/5th respondent herein namely the Superintending Engineer, General construction, Circle-I, the encroachments has been made by the various individuals. This issue has to be considered seriously, if no permission has been granted to any one the encroachments has to be dealt with, in accordance with law by the authorities namely the Superintending Engineer, General construction, Circle-I, TRANTRANSCO, Guindy within a period of eight weeks from the date of receipt of copy of the order.

7. Hence this Court directs the respondents to proceed with the construction of the storm water drain as proposed without affecting the petitioner's land and if necessity arises, the



petitioner lands has to be acquired and unauthorizedly cannot disturb the petitioner by letting in rain water.

8. With the above direction, this writ petition is allowed.
No Costs.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gba

To

1. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department, Fort St.George, Chennai- 600 009.
 2. The District Collector,
Tiruvallur District, First Floor, Collectorate,
Tiruvallur - 602 001.
 3. The Tahsildar,
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 6. The Zonal Officer, Zone-II, Corporation of Chennai,
 7. The Executive engineer, Zone-II, Corporation of Chennai
- +1cc to Mr.Premkumar, Advocate, SR.No.56916

W.P.No.19861 of 2020

MG(CO)
KKV/29/11/2021