



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.3156 of 2021
(Through Video Conferencing)

N.Gnanasekaran

... Petitioner

Vs.

1. The District Collector
Madurai District.
2. District Engineer (NE)
Construction and Maintenance
Madurai District.
3. Assistant Divisional Engineer (NE)
Construction and Maintenance
Peraiyur
Madurai District.
4. Assistant Engineer,
Construction and Maintenance,
Peraiyur,
Madurai District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 05.12.2020 and further direct the 4th respondent to stop the construction work in the said Survey No.140, 128, 129/1 at Chilarpatti Village Panchayat, Peraiyur Taluk, Madurai District.

For Petitioner : Mr.N.Saravanan
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner being the President of the Local body has come

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forward to file this writ petition seeking appropriate direction to consider the representation made on 05.12.2020, wherein, the petitioner seeks to stop the project involving construction of retaining wall at T.Kallupatti - Peraiyur Road and Silarpatti Road.

2.The learned counsel for the petitioner submitted that such construction cannot be done without the consent of the petitioner. In fact, complaint made by the petitioner has been looked into and a reply has already been given. Even as per the typed set of papers filed by the petitioner, in the reply given by the respondent No.4, it has been clearly stated that the construction is on the State highway and therefore, the Government has got the jurisdiction to do so.

3.The learned Special Government Pleader placing reliance upon Section 125 of the Tamil Nadu Panchayats Act, submitted that power vests only with the Government.

4.Section 125(1) of the Tamil Nadu Panchayat Act, 1994, states as follows:

"125. (I) All public roads in any village (other than roads which are classified by the Government as National Highways or State Highways or as major district roads or as panchayat union roads) shall vest in the village panchayat together with all pavements, stones, and other materials thereof, all works, materials and other things provided therefor, all drains, drainage works, tunnels and culverts whether made at the cost of the village panchayat or otherwise, in, alongside or under such roads, and all works, materials and things appertaining thereto."

5.Admittedly, the ongoing construction is part of a large scheme brought into being in pursuant to the Government order passed in G.O.Ms.No.71/Highways and Minor Ports (HF2) Department, dated 18.05.2020 at a total cost of Rs.5,300/- crores. The construction is also on the State highway. Therefore, the petitioner does not have a case. The complaint made has also been replied to correctly by the respondent No.4. The writ petition stands dismissed accordingly. No costs.

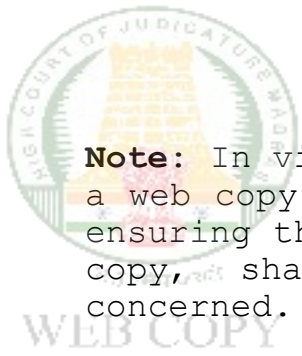
Sd/-

Assistant Registrar (Cr1)

// True Copy //

/ /2021

Sub Assistant Registrar



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector
Madurai District.
2. The District Engineer (NE)
Construction and Maintenance
Madurai District.
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Construction and Maintenance
Peraiyur
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4. The Assistant Engineer,
Construction and Maintenance,
Peraiyur,
Madurai District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-6417[F] dated 22/02/2021)

Order made in
WP (MD) No.3156 of 2021
19.02.2021

RR

SRS/01.03.2021/3P/6C