



W.P.No.28205 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2022

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.28205 of 2022

R.Krishnamoorthy

.. Petitioner

Vs

- 1.The Superintending Engineer,
Public Works Department,
Melkaveri Catchment Circle, Post No.769,
Salem-636 007.
- 2.The Assistant Commissioner,
Hasthampatty Zone,
Salem Corporation,
Salem-636 007.
- 3.The Executive Engineer,
Public Works Department,
Melkaveri Catchment Circle,
Salem-7.
- 4.The Executive Engineer,
Public Works Department,
Sarabanga Catchment Division,
Namakkal-1.



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5.The Assistant Executive Officer,
Public Works Department,
Sarabanga Water Resource,
Salem.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the first respondent pertaining to க.எண்.10 பல/இ.வ.அ.3/கோ.பொது/2018/dated 31.01.2019 and quash the same and consequently direct the first respondent to provide sanction for construction of bridge over the Odai situated at T.S.No.200, Azhagapuram Village, Salem and calling for records of the second respondent pertaining to Na.Ka.No.J.11/6900/2018 dated 22.03.2019 and quash the same and consequently direct the second respondent to remove the 10 feet wall encroachment made in 8th cross street comprised in T.S.No.199, Azhagapuram Village, Salem.

For the Petitioner : Mr.P.Valliappan
for M/s.PV Law Associates

For the Respondents : Mr.A.Selvendran
Spl. Government Pleader
for respondent Nos.1,3,4
and 5

: Mrs.G.Devi
Standing Counsel
for respondent No.2



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ORDER

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(Order of the court was made by D.KRISHNAKUMAR,J.)

This writ petition has been filed by the petitioner to quash the impugned order dated 31.1.2019 passed by the first respondent and the order dated 22.3.2019 passed by the second respondent and to direct the first respondent to accord sanction for construction of a bridge over the Odai situated at T.S.No.200 of Azhagapuram Village and also to enjoin the second respondent to remove the 10 feet wall encroachment made in 8th cross street comprised in T.S.No.199 of Azhagapuram Village, Salem.

2. According to the petitioner, he is residing at the property comprised in T.S.No.117 and the Odai in question is comprised in T.S.No.200, which runs between his property and 30 feet access road comprised in T.S.No.54 and the said 30 feet access road leads to 50 feet Brindavan main road. Due to the existence of Odai, the petitioner is unable to access the main road and is constrained to take an alternative access road, namely Meyyanur road, to reach the



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main road, which causes great hardship to transport the agricultural produce from his farm.

3. It is alleged by the petitioner that when the petitioner approached the fourth respondent to accord sanction to construct a small bridge measuring an extent of 20 feet across the Odai, he was directed to approach the second respondent and, as directed, the petitioner approached the second respondent for necessary approval. However, the second respondent, by a communication dated 10.6.2015 stated that the Revenue Department and Public Works Department have jurisdiction over Odai and he was directed to approach the said authorities.

4. It is further alleged by the petitioner that upon approaching the Public Works Department, the fifth respondent, namely, the Assistant Executive Engineer, Sarabanga Water Resource, on enquiry, had recommended for sanction to construct the bridge across the Odai at the expense of the petitioner, subject to certain conditions and the same was forwarded to the fourth respondent for



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further action on 23.6.2016. While so, the fourth respondent, vide order dated 27.2.2017, refused to give sanction for construction of the bridge on the ground that the petitioner is owning property on the eastern side of the Odai and not on the western side. Thereafter, when the petitioner approached the first respondent for similar relief, by the order dated 15.10.2018, the first respondent refused to provide sanction.

5. It is alleged by the petitioner that on 22.11.2018, he has submitted a representation to the Principal Secretary, Public Works Department and the same was forwarded to the second respondent. By an order dated 31.1.2019, the first respondent rejected the request of the petitioner on the ground that a 10 feet wall was erected at the entry of 8th cross street towards west of Odai.

6. According to the petitioner, 10 feet wall was erected in the poramboke land and the same is an encroachment of the public land. Moreover, vide communication dated 22.3.2019, the second respondent stated that removal of encroachment will be considered



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as per the provisions of the Municipality Act, 1994 only after the request of the petitioner for construction of bridge across the Odai is sanctioned by the first respondent. Though respondents 1 and 4 have considered and sanctioned the request for construction of bridges across the Odai for similarly placed persons, for one reason or the other, the request of the petitioner was rejected. Hence, the petitioner has filed the present writ petition for the aforesaid relief.

7. The request for construction of a small bridge across the Odai has been rejected by the first respondent stating that only after removal of the 10 feet wall erected at the entry of 8th cross street comprised in T.S.No.199, the request of the petitioner will be considered.

8. At this juncture, the learned counsel for the petitioner submitted that unless the second limb of prayer for removal of encroachment made at the entrance of 8th cross street is considered, the petitioner will not be in a position to get sanction from the authority concerned for construction of a bridge across the Odai.



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Therefore, suffice it to direct the second respondent to remove the encroachment made at the entrance of 8th cross street in T.S.No.199.

9. Learned Special Government Pleader as well as learned counsel appearing for the Corporation submit that no representation was received by the respondent authorities for removal of 10 feet wall at the entrance of 8th cross street comprised in T.S.No.199 of Azhagapuram Village, Salem.

10. Though the petitioner has stated that he has made a representation for removal of encroachment and no action was taken till date, on a perusal of the materials available on record, no such representation is available. Learned counsel for the petitioner has referred to the notice dated 22.3.2019 found at page 91 of the typed-set of papers and submitted that there is a reference of submitting representation by the petitioner.

11. On a perusal of the notice dated 22.3.2019 referred to by



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learned counsel for the petitioner, we find that the petitioner has sought information under RTI Act, 2005, where a reference of Case No.SA 3614/C/2018 dated 14.3.2019 has been mentioned. The reference made in the notice dated 22.3.2019 cannot be treated as representation of the petitioner. In the absence of any representation sent by the petitioner seeking removal of encroachment at the entrance of 8th cross street, the prayer sought by the petitioner to direct the second respondent to consider the representation of the petitioner cannot be acceded to.

12. That apart, the plea made by the petitioner to remove the 10 feet wall erected at the entrance of 8th cross street towards west of the Odai is without producing any shred of material to show that the said wall is constructed in the Odai land. Further, there is nothing on record to show that the petitioner has approached the respondent authorities for removal of 10 feet wall by enclosing relevant documents. Bereft of any material particulars or representation, the prayer of the petitioner to direct the second respondent to consider and dispose of the representation cannot be



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ordered. It is open to the petitioner to approach the concerned authority, if so advised.

13. Finding no merit in the writ petition, the same is dismissed. There will be no order as to costs. Consequently, W.M.P.No.27496 of 2022 is closed.

(D.K.K., J.) (K.R., J.)
25.11.2022

Index : Yes/No
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To:

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Salem-636 007.
- 2.The Assistant Commissioner,
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- 3.The Executive Engineer,
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Salem-7.
- 4.The Executive Engineer,
Public Works Department, Sarabanga Catchment Division,
Namakkal-1.
- 5.The Assistant Executive Officer,



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Public Works Department, Sarabanga Water Resource,
Salem.

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D.KRISHNAKUMAR,J.
AND
KRISHNAN RAMASAMY,J.

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