



W.P. No. 17557 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 17557 of 2023

K.Deivanayagam

... Petitioner

-VS-

1. The Commissioner,
Bahour Commune Panchayat,
Bahour,
Puducherry – 607 402.

2. Dhinakaran

3. Srinivasan

4. M.Elamathi

5. S.Bau Murugappa

6. D.Ravi Kumar
(R2 to R6 are impleaded vide order dated
21.11.2023 in W.M.P. No. 22842 of 2023)

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to stop the road work at the Dharga Street, Bahour and also to take remedial measures by way of maintaining the road level to the existing road level by removing the recently filled earth within a time frame.



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W.P. No. 17557 of 2023



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W.P. No. 17557 of 2023

For Petitioner : Ms. V.Revathi
for M/s. Pondy Law Firm

For Respondents : Mr. M.Nirmal kumar (for R1)
Government Advocate (Pondicherry)

Mr. S.L.Venkatesan (for R2 to R6)

ORDER

Heard Ms. Revathi, Learned Counsel appearing for the Petitioner, Mr. M.Nirmal kumar, Learned Government Advocate (Pondicherry) for the First Respondent and Mr. S.L.Venkatesan, Learned Counsel for the Second to Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First Respondent to stop the road work in Dharga Street, Bahour and to take remedial measures by way of maintaining the road level to the existing road level by removing the recently filled earth within the time limit that may be fixed by the Court.

3. The First Respondent has filed Counter-Affidavit dated 31.08.2023 stating as follows:-



W.P. No. 17557 of 2023

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3. I state that the Dharga Street is located within the jurisdiction of the Bahour Commune Panchayat running West to East. This internal street is branching from main road called West Street of Bahour running from South to North. There is also North Street running parallel to the Dharga Street running West to East in front of the ancient Bahour Arulmigu Sri Moolanathaswamy Temple.

4. It is relevant to point out that the Dharga Street was once a paddy field and the present road was laid at least three decades back with no drainage facilities when only two or three houses existed there. The road is now completely worn-out and damaged requiring repair works. The Dharga Street is much lower in level than the intersecting main roads, namely West Street and North Street resulting in frequent inundation of the street with flood waters.

5. I state that currently there are about thirty one houses, one Dharga and one rice and flour mill and the Street is likely to house many more buildings in the immediate future. Due to the



W.P. No. 17557 of 2023

water stagnation, the residents of this Street and the members of public who are visiting the Dharga for prayers are facing severe hardships in using this Street during rainy season. Further the water stagnation is causing health hazards to the public and the residents alike.

6. *It is only in the above context, based on the request of the public, the Hon'ble Member of Legislative Assembly (MLA) of Bahour Constituency requested the Hon'ble Chief Minister of Puducherry to improve the Dharga Street in addition to carrying on other civil works in various places in the Bahour Constituency under own fund/development fund of Bahour Commune Panchayat vide his representation dated 23.10.2021. Based on the request, approval of the Local Administration Department was obtained to take up improvement work of the Dharga Street on 11.03.2022. Accordingly estimate was prepared to raise the road to a reasonable level with sufficient gradient so that there should not be any water stagnation during rainy season.*

7. *It should also be noted that the work order dated*



W.P. No. 17557 of 2023

20.12.2022 was issued after e-Tender dated 10.09.2022 was published widely in newspapers. Accordingly, the road work is being executed now. The storm water is to be disposed by maintaining road slope from East to West of Dharga Street towards main road of West Street. Accordingly, the road work is being carried out without affecting any house including that of the Petitioner.

8. While the Petitioner's representation dated 08.04.2023 was received objecting to the continuation of the road work, representation dated 10.04.2023 was received from about 33 other people residing on the Street welcoming the road development and requesting not to drop the raising road level for the sake of one individual. Hence, it was explained to the Petitioner at the work site in the presence of about 15 other residents of the Street that the road improvement work will be carried out without affecting any house as far as possible. In fact, this exercise was done even as early as on 30.01.2023 while conducting Boomi Puja for the work in the presence of Hon'ble MLA of Bahour Constituency and public residing on Dharga



W.P. No. 17557 of 2023

Street.

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9. Further it was explained to the public on the same occasion that action will be taken to construct “U” drain in Dharga Street and West Street to dispose storm water in the nearby canal which is located on the West Street. This will reduce the raising of road level to a minimum and storm water will be disposed without affecting the house of the Petitioner. Further the raising of the road level is kept to a minimum so that to avoid any inconvenience to the Petitioner's house Thiru. K.Devianayagam despite request from the other residents to raise the level of the road even further.

10. Accordingly the road work is being carried out without affecting any house including that of the Petitioner. Further, the Hon'ble Member of Legislative Assembly (MLA) of Bahour Constituency conducted a meeting on this issue by inviting officials of Bahour Commune Panchayat and the people residing on the Dharga Street on 01.06.2023 in his camp office at Bahour. However, the Petitioner did not participate in the meeting while other residents requested completion of the work



W.P. No. 17557 of 2023

before monsoon season begins this year.

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11. *Further, it was decided in the meeting that in order to restrict the rising road level, necessary action shall be taken for the construction of 'U' drain instead of normal 'L' drain with required depth in Dharga Street and main road of West Street to dispose the rainwater through the main road of West Street to the nearby canal located on West Street.*

12. *It is further stated that between 05.06.2023 and 20.06.2023, there were five rainy days, during which there was no complaint received from the public residing in this Street regarding water stagnation on road. It may also be noted that the Petitioner's house was also not affected adversely.*

13. *I state that on 20.06.2023, the existing levels of road after Gravel filling and the Petitioner's level of house were recorded in the presence of Engineering officials of Bahour Commune Panchayat with the consent of the Petitioner. It was ensure that only 21 cm of gravel earth filling was done in front of the Petitioner's house. The front portico is 8 cm above the formed road level now. Further, the level of front verandah is 18 cm and*



W.P. No. 17557 of 2023

the level of interior floor is 28 cm above the formed road level

now. Hence, there is no harm to the Petitioner's house.

14. I submit that the filling work is completed now and metal having two layers will be laid and finished with Tar road by leaving/keeping two feet both side free for future construction of 'U' drain. Hence there will be no harm to the Petitioner's house in future also. These facts have also been explained to the Petitioner by the Engineering officials of Bahour Commune Panchayat on 20.06.2023 i.e., the Petitioner's plinth level will be higher than the road."

In view of the aforesaid action taken by the First Respondent, nothing remains for further consideration in the Writ Petition, but if the Petitioner still has any grievance to be redressed in the matter, he is not precluded from working out his rights before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed with the aforesaid observations.

No costs.

13.12.2023

Index: Yes/No



W.P. No. 17557 of 2023

NCC: Yes/No

Note: Issue order copy by 05.02.2024.

vjt

To

The Commissioner,
Bahour Commune Panchayat,
Bahour,
Puducherry – 607 402.



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W.P. No. 17557 of 2023

P.D. AUDIKESAVALU, J.

vjt

W.P. No. 17557 of 2023

13.12.2023