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W.P.No.19116 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19116 of 2023

D.Dasarathan

... Petitioner

Vs.

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.

2.The Managing Director
Metro Water Main Office,
Pumping Station Road,
Chitadripet, Chennai-600 002.

3.The Asst. Engineer,
Metro Water Division No.157,
Manapakkam, Chennai-600 125.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents 2 and 3 to lay down the private chamber road with blue metals and awarding cost to the 2nd and 3rd respondent by taking necessary action on the notice dated 18.04.2023 issued by the petitioners through the counsel with the time limit which may be fixed by the Court.



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For Petitioner : Mr.R.Sethupandian
For Respondents :
(for R1) : Mr.E.Sundaram, Govt. Advocate
(for R2 and R3) ; Mrs.K.Vasanthamala

ORDER

The relief sought in the present writ petition is to direct the respondents 2 and 3 to lay down the private chamber road with blue metals and awarding cost to the 2nd and 3rd respondent by taking necessary action on the notice dated 18.04.2023 issued by the petitioners through the counsel.

2.The petitioner states that in the year 1972, bricks manufacturing industries were developed in Manapakkam area to supply bricks to the city people. Other industries were also functioning during the relevant point of time and there was no approach road from Manapakkam Road to their Brick Kilns and therefore, the original owners of the property joined together, bought land for construction of brick kilns as well as land for laying approach road to the Brick manufacturing industries. The petitioner states that since the Government had not provided them approach road for those brick industries, the owners, by spending money, purchased lands



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and provided access. As per the deed of exchange executed on 17.11.1972, lands were exchanged for construction of private lorry pattai, i.e., chamber road for their business of brick manufacturing industries in the Manapakkam area.

3.The grievances of the writ petitioner is that the respondents 2 and 3, without issuing any notice to the petitioner or to the other owners, dug out on the private chamber road and laid down sewage pipes and kept the roads not properly closed and thus the road became non-usable. The petitioner states that the respondents 2 and 3 have no right and authority to dig out the private road and damaging it. On account of the activities of the respondents 2 and 3, the petitioner and other owners of that brick industry is unable to use that road.

4.The respondents 2 and 3 filed a report stating that the work of “providing comprehensive under ground sewage scheme to Manali, Chinnasekkadu, Karambakkam and Manapakkam in Chennai City” was awarded to M/s.Subaya Construction Company Limited, Chennai, for a value of Rs.150,15,48,824.33/- and the work commenced on 01.07.2019 and is under progress. As on date an overall physical progress of 74.54%



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and the financial progress of 53.23% have been achieved in the work. The report further reads as under:

“I submit further that with respect to the writ petition been filed by the Writ petitioner against the respondents the following report is submitted:

a. It is submitted that the work of laying gravity sewer and pumping main under Manapakkam UGSS have been carried out in Chamber road by the contractor as per the DPR of the work. The deep sewer laid in this road is leading to the Zone I - Indira Nagar SPS constructed at the end of the road.

b. While requesting Road cut permission for laying gravity sewer in this road, the Greater Chennai Corporation has claimed the road restoration charges for Rs 2,96,510/- during the year 2019 itself, for this road for a length of 142m (Copy enclosed). It may be observed that during 2019 i.e. prior to the execution of pipe laying works, the chamber road was only mud road and till date the said road is only mud.

c. Accordingly, the work has been carried out and the road was levelled and made motorable. Photographs of the present conditions of the said chamber road are enclosed for reference in this Hon'ble Court.”



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5.The learned counsel appearing on behalf of the respondents 2 and 3 furnished the copies of the photographs and the Google map images to establish that the subject road is a public road and not belonging to the petitioners and the other owners. Electrical transformers were already commissioned, street lights are provided and therefore, it is a common pathway to be made available to the public at large. The subject road leads to CMW pumping station and the Corporation also installed street name board. The public road is now attempted to be grabbed by few individuals who all are residing there and therefore, the contentions of the petitioner, that it is a private road is incorrect. The photographs placed before this Court would reveal that the name of the streets on the board is also visible which was removed by the residents. That apart, the electrical transformer was also commissioned and street lights are provided and therefore, the public road cannot be utilised by few individuals of that locality.

6.In the event of any obstructions on the part of the private owners of that locality for utilising the public road, all appropriate actions are to be initiated. Once the road has been declared as public road, the residents of



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that locality cannot prevent others from using the road for reaching the sewage pump station. Thus any obstruction if made is actionable.

However, the authorities should also ensure that the road has been maintained properly in a good condition so as to ensure that the people of that locality do not suffer for the purpose of utilising the public road in a peaceful manner. Thus, it is made clear that if the road is already damaged then all appropriate actions are to be initiated to rectify the same and make the road user friendly.

7.The learned counsel for the respondents states that they have already cleared all the materials and other aspects. If so, the road is to be maintained properly for public usage in the manner known to law.

8. Accordingly, the writ petition stands **dismissed**. However, there shall be no order as to costs.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

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