



W.P(MD)Nos.2260 and 2261 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).Nos.2260 and 2261 of 2023
and WMP(MD)Nos.2035, 2037, 2038, 2041, 2042,
2043, 2044, 2045, 2046 and 2047 of 2023

M.Rani

... Petitioner in WP(MD)No.2260 of 2023

T.Valanteena

... Petitioner in WP(MD)No.2261 of 2023

Vs

1. The District Collector,
Collectorate, Dindigul.
2. The Asst. Director (Panchayat),
District Collectorate, Dindigul.
3. The Block Development Officer,
Nilakottai, Dindigul.
4. The President,
Panchayath President,
Pachamalaiyankottai, Dindigul District.

*(The name of R4 deleted and Official capacity mentioned
in the Cause title vide Court Order dated 03.04.2023)*



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5. Chandran

6. Selvi

7. Nagarajan

8. Gopal

9. L.Prabhu

10. L.Savithri

11. Kannan

12. Muniyammal

... Respondents in all petitions

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to restore the closed drainage channel, running east west direction situate in northern side of Mooventhur Colony 1st Street, Sempatti .

In all writ petitions:

For Petitioner : Mr. S.Rengasamy

For R1 & R2 : Mr.J.Ashok
Additional Government Pleader

For R3 : Mr.V.Omprakash
Government Advocate

For R4 : Mr.R.R.Kannan

For R5 to R12 : Mr.B.Senthil Kumar



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COMMON ORDER

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The two residents of Moovendar Colony 1st Street and both of them claim that they are residing at D.No.1/114-A in the said street, are the writ petitioners herein. The writ petitioners had also impleaded the other residents in the said street as respondents 5 to 12.

2.Both the writ petitions have been heard and common order is passed, even without issuing notice to the said respondents 5 to 12.

3.Heard the learned counsel for the petitioners at length, at least on three hearing dates and also the learned counsel for the respondents 1 to 4.

4.The grievance of both the writ petitioners are one and the same. The arguments overlapped, facts overlapped, a common order is passed.

5.Both the writ petitions have been filed in the nature of mandamus, seeking a direction against the respondents 1 to 3 to restore the drainage channel, which according to them, runs east to west direction at the northern side of Mooventhur Colony 1st Street, Sempatti, Nilakottai Taluk,



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Dindigul District. It is stated that the said drainage channel has been closed by the respondents 1 to 3. It is therefore, sought that the said closure of drainage channel should be interfered with by the Court and a direction may be given to open up the drainage channel.

6. Along with the writ petitions, several title deeds of the petitioners had been filed as documents and more particularly a common typed-set of papers, wherein, the learned counsel for the petitioners produced photographs of the said street, the position in which drainage channel runs and according to him the closed drainage channel which was sought to be restored.

7. This Court place its deep appreciation for the efforts taken by the learned counsel for the petitioners.

8. According to the learned counsel for the petitioners, the Mooventhar Colony 1st Street runs, south to north direction and the northern end hits into the National Highway.



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9.The learned standing counsel for the fourth respondent, who had been impleaded by the name and the name was deleted by order of this Court, dated 03.04.2023, stated that the National Highways had been built on an elevation of atleast three feet and therefore stated that there is a height difference between the Mooventhur Colony 1st Street, where the petitioners reside, which runs in the south to north direction and the National Highway, which runs in the east to west direction.

10.On the northern side of Mooventhur Colony 1st Street, there was a drainage channel, which also runs east to west, just adjacent to the platform of national highway. Since the road level of highways had been increased, it is claimed by the learned Standing Counsel for the fourth respondent that if drainage and sewage waters are permitted to flow into the drainage channel, owing to difference in elevation, it is will only flow back under the ground and which would also affect the stability of the buildings, more importantly, in the subject land, where the petitioners themselves have constructed their houses. The only alternative solution is that each of the resident should build a sump in their plots, which would percolate the drainage water and therefore, each house would be self sufficient in discharge



of its own drainage waste water.

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11.It is stated by the learned counsel for the fourth respondent that the writ petitioner in WP(MD)No.2261 of 2023 had actually constructed a sump. Therefore, like other residents, who had been impleaded as respondents 5 to 12, she cannot have any cause for grievance.

12.With respect to the petitioner in WP(MD)No.2260 of 2023, it is stated by the learned Standing Counsel for the fourth respondent that there is sufficient space in her place where the sump could be built up.

13.It is the policy of the fourth respondent to give subsistence of Rs.12,000/- towards cost of construction of sump. It is stated that this sump is required because the National Highway has been constructed at an elevated level, in order to prevent flow back water, which would affect the residence of Moovendar Colony 1st Street.

14.The fourth respondent had called upon each of the residents and intimated them to construct sumps. The petitioner in WM(MD)No.2261



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of 2023 had also constructed a sump. It is only the petitioner in WP(MD) No. 2260 of 2023, who had not constructed such a sump, though a sum Rs. 12,000/- is extended as subsidy towards part cost of the construction of sump.

15.The learned counsel for the petitioners insisted that the drainage system which had been closed should be reopened by the fourth respondent. It is complained that the drainage water flows over to the ground, and since that particular channel was in use for 20 years it would be able to take in the drainage water from all areas. The photographs pointing out the same were also produced.

16.The discussion in the writ petition went over for a number of hearing dates and to the re-collection of this Court, no legal submission was made. No point of law is involved.

17.Necessary solution could be granted to the petitioners for their problem only if they accept to a solution.

18.The petitioner in WP(MD) No.2261 of 2023 appear to have



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joined hands with the respondents 5 to 12 and had also constructed a sump and only the petitioner in WP(MD) No.2260 of 2023, would have to do so.

19.This Court cannot give any direction about the construction of drainage sump, opening of drainage channel and construction of sump. It is the individual choice of every resident. They may or may not consider the same as an alternative solution for drainage of sewage water from their respective houses. This Court cannot act as a monitoring entity over the petitioners herein, since sanitary cleanliness should be in the minds of every citizen.

20.Be that as it may, the writ petition had been filed in the nature of a mandamus only. In view of the specific stand taken by the learned counsel for the fourth respondent that the existing drainage water channel cannot be put to use, the writ petitioner in WP(MD) No.2260 of 2023 may construct a sump like other residents in that particular area. The petitioner in WP(MD)No.2260 of 2023 must accept that building a sump will provide a solution. Let a sump be constructed by the petitioner in WP(MD)No.2260 of 2023 and let that be in place for six months. If there is still issues in flow of



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drainage water a separate representation can be given to the fourth respondent.

21.After construction of a sump, the residents including the writ petitioners and the respondents 5 to 12, can join hands and one of them independently or all of them together may give a separate representation before the fourth respondent about their experience of the drainage of water, after the construction of sump. If the problem still exists for flow of drainage water, a direction is issued to the fourth respondent to examine such representation and come up with a workable solution with the assistance of the third respondent/Block Development Officer, Nilakottai, Dindigul.

22.The learned counsel for the petitioner also pointed out that the Athur Municipality had constructed a drainage sump and stated that similar steps can be taken by the fourth respondent herein. But, first let the petitioner in WP(MD) No.2260 of 2023 construct a sump and let it run for six months. After six months, if the problem still exists for flow of drainage water, the fourth respondent may put up a drainage system like any other Panchayat. I am confident that the fourth respondent would do the needful, even without



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any representation.

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23. With the above directions, the writ petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

10.04.2023

NCS : Yes/No

Index : Yes / No

Internet: Yes/ No

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To

1. The District Collector,
Collectorate, Dindigul.
2. The Asst. Director (Panchayat),
District Collectorate, Dindigul.
3. The Block Development Officer,
Nilakottai, Dindigul.
4. The President,
Panchayath President,
Pachamalaiyankottai, Dindigul District.



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C.V.KARTHIKEYAN, J.

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