



W.P(MD)No.13731 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13731 of 2014
and
W.M.P.(MD)No.8495 of 2016

A.Senthilkumar

... Petitioner

Vs.

- 1.The District Collector Cum
Inspector of Panchayats,
Virudhunagar District.
- 2.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.
- 3.The President,
Aanaikuttam Panchayat,
Virudhunagar District.
- 4.The President,
Mela Amathur Panchayat,
Virudhunagar District.
- 5.The Assistant Director for Rural Development (Panchayats),
Virudhunagar, Virudhunagar District.
6. The Block Development Officer,
Sivakasi, Virudhunagar District.



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7.P.Chellammal

8.A.Ramasamy

9.Anthoniyamal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent in Na.Ka.Vu.E4/828/2013 dated 16.08.2013, quash the same and consequentially direct the respondents 1 to 6 to form a drainage in the Main Street situate in Meenatchipuram village and Aanaikuttam post of Virudhunagar Taluk and District.

For Petitioner : Mr.M.Solaisamy

For Respondents : Mr.S.Shanmugavel,
Addl. Govt. Pleader for R1, R2 & R5.
Mr.R.Velmurugan for R3, R4 & R6.
No appearance for R7 to R9.

ORDER

Heard the learned counsel on either either and perused the materials on record. An advocate commissioner was appointed and he has submitted his report.



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2.I perused the report of the Advocate Commissioner. It is seen that the petitioner lacks drainage facility. The petitioner's request was considered by the first respondent and the impugned order came to be passed. The first respondent has expressed his difficulty. On account of the location of the petitioner's house, unless the neighbours come forward to donate a portion of their land, it is not possible to put up a draining channel. Challenging the stand taken by the first respondent, this present writ petition came to be filed.

3.The Advocate Commissioner after inspecting the property had indicated in the report that the seventh respondent had committed encroachment. The second respondent is directed to remove the encroachment made by the seventh respondent after complying with due process of law. But even after removal of encroachment, unless the petitioner is able to prevail upon the neighbours to part with a portion of their lands, it may not be possible to construct a drainage channel.



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4.In matters such as this, the Writ Court will not be justified in issuing any positive direction. It is true that the amenity requested by the petitioner is something fundamental and basic. It is for the local body as well as the administration to find a way out by taking into account the ground reality and financial constrains. The writ petition was filed some ten years ago. The petitioner is permitted to submit a fresh representation to the first respondent and the first respondent is requested to have a re-look at the issue. I make it clear that the decision of the first respondent on the petitioner's fresh representation will not subject to judicial review again.

5.With this liberty to the petitioner to approach the first respondent, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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