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W.P.(MD)NO.23104 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23104 of 2021

K.Mahendran

... Party-in-Person

Vs.

1. The Additional Chief Secretary,
Public Works Department,
Secretariat, St. George Fort,
Chennai – 600 009.
2. The Secretary,
Highways Department,
St. George Fort,
Chennai.
3. The Additional Chief Secretary,
Municipal Administration and
Water Supply Department,
Chennai – 600 009.
4. The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai.
5. The District Collector,
Madurai District, Madurai.
6. The Commissioner,
Madurai Corporation,
Madurai.



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7. The Regional Officer,
National Highways Department,
Melur Main Road,
Lake Area, Madurai.
8. The Executive Director(TNRIDC),
Tamil Nadu Road Infrastructure
Development Corporation,
No.735, L.L.A.Building, 4th Floor,
Chennai – 600 002.
9. The Team Leader Cum Senior Highway Engineer,
Independent Engineer,
Tamil Nadu Road Infrastructure Development Corporation,
No.18, Gangai Amman Kovil 4th Street,
Vadapalani,
Chennai – 600 026.
(R-8 & R-9 are impleaded vide order dated 20.10.2022
in W.M.P.(MD)No.18446 of 2022)
10. Vinod Gandhi
(R-10 is impleaded vide order dated 24.04.2023
in W.M.P.(MD)No.8336 of 2023) ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 16.12.2021 and consequently to restore the storm water canal either side of Mattuthavani to Pandi Kovil Ring Road, Madurai and Uthangudi to Mattuthavani Road, Madurai within the time limit that may be stipulated by this Court.

For Petitioner : Mr.K.Mahendran,
Party-in-person.



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For R-1 to R-5 : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.K.Balasubramani,
Special Government Pleader.

For R-6 : Mr.K.K.Kannan

For R-7 : Mr.S.Karthik

For R-8 : Mr.P.Thilak Kumar,
Government Pleader.

For R-10 : Mr.M.Sureshkumar

* * *

ORDER

Heard the petitioner in person and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the official respondents and the learned Standing counsel appearing for Madurai Corporation and also the learned counsel for NHAI.

2. The writ petitioner is a practising lawyer. His specific case is that when he purchased Plot No.23, Paramaguru Nagar 1st Street, Madurai, there was no water stagnation. That was because the existing canal connected Uthankudi Kanmoi and Vandiyur Kanmoi thereby ensuring flow of surplus water through canal to Vandiyur Kanmoi. The



petitioner's specific allegation is that when " Mattuthavani - Pandi Kovil Ring road " was widened, the work was done in such a way leading to destruction of the existing two culverts and also closure of the canal on both sides of Ring road. As a result, whenever there is rain, the petitioner's land suffers from water logging. Not only the petitioner but all the residents of the locality are also affected. The only prayer made by the petitioner is for restoration of the original position.

3. No exception can be taken to the petitioner's request. In fact, the case was taken up on a number of occasions. The learned Additional Advocate General submitted that the State proposes to find out a solution by restoring the canal. In order to enable the Government to grant necessary approval, the matter was adjourned from time to time. Today when the matter was taken up for hearing, the learned Additional Advocate General submitted that the approval is still awaited.

4. We are of the view that the issue cannot brook any further delay. The writ petition was filed way back in December 2021. Two years are going to elapse. It is well



settled that a canal cannot be obliterated. In this case, widening works were done by overlooking this elementary aspect. We also note that the canal has been functioning as feeder channel for Vandiyur Kanmoi. Otherwise there is no other way for surplus water of Uthankudi Kanmoi to reach Vandiyur Kanmoi. As a result of inept execution of civil works, Vandiyur Kanmoi is deprived and the entire area is being inundated. Since the destruction of the culvert was carried out under the aegis of the eighth respondent, the eighth respondent is directed to ensure restoration of the original position. This shall be done as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. This writ petition stands allowed. No costs.

(G.R.SWAMINATHAN,J.)

(B.PUGALENDHI,J.)

21.11.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.
AND
B.PUGALENDHI,J.

PMU

To:

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Secretariat, St. George Fort, Chennai – 600 009.
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3. The Additional Chief Secretary,
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