



W.P(MD)No.26867 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.26867 of 2022

D.Chellammal

... Petitioner

VS.

1.The District Collector,
Madurai District.

2.The Regional Director,
The National Highway Authority of India,
Melur Main Road,
Near Mattuthavani Bus Stand,
K.K.Nagar,
Madurai District.

3.M/s.Adhira Agencies,
Represented by its Proprietor,
H.P. Petrol Bunk,
Madurai to Trichy Highway,
Melur,
Madurai District.

4.The Assistant Divisional Engineer,
Construction and Maintenance – (Highway) Department,
Madurai District. ... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to remove the encroachment in the surplus water and rectify the same and also direct the respondents to pay Rs.5 lakhs compensation for the loss sustained because of the encroachment within the time stipulated by this Court and direct the second respondent to grant permission to construct a mud path from Highway to the field as there is no direct access to the field from Highway road.

For Petitioner : Ms.B.Bhuvaneshvari

For RR 1 & 4 : Mr.K.Balasubramani
Special Government Pleader

For R – 2 : Mr.P.Karthick

For R – 3 : Mr.J.Barathan
for Mr.S.Selvakumar

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the respondents to remove the encroachment in the surplus water and rectify the same and also direct the respondents to pay Rs.5 lakhs compensation for the loss sustained because of the encroachment within the time stipulated by this Court and also directing the



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second respondent to grant permission to construct a mud path from Highway to the field as there is no direct access to the field from Highway road.

2.Pursuant to the order passed by this Court, dated 21.12.2022, directing the respondents 2 and 4 to conduct an inspection in the water channel in question on 23.12.2022 or any other day, along with the Tahsildar of the area concerned and on inspection, if any encroachment/blocking of free flow of water either by the encroachment or by the construction of culvert in the subject water channel, take necessary action for removal of the same, in accordance with law and file action taken report before this Court on the next hearing date, the second respondent has filed a counter-affidavit.

3.In the counter-affidavit filed by the second respondent, it has been stated that the technical team had conducted an inspection in the third respondent's Petrol bunk and they found that the newly constructed drainage structure at the retail outlet has an invert for free flow of excess water. The third respondent has also been instructed to reduce the height of the bed level of the structure and rectify the same with reference to the



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original ground level as per the drawing and conditions of the license deed and the same was communicated vide letter dated 15.12.2022.

4.Further, the second respondent has also filed an additional typed set of papers, wherein, the second respondent filed a report stating that the rectification work of lowering the invert level of the drainage structure in front of the retail outlet (M/s. Hindustan Petroleum Corporation) at Km 101-452 on RHS work was completed and waiting for the concrete final setting time for its operation and also enclosed the photographs of completed work along with the report.

5. Before parting the order, as per the counter affidavit filed by the second respondent, due to the construction of culvert by the third respondent near their Petrol Bunk, the free flow of water in the subject water channel is blocked. The petitioner has paid a sum of Rs.25,000/- to the Advocate Commissioner towards remuneration for inspection of the subject water channel. Since the report of the second respondent clearly states that due to the construction of culvert by the third respondent, there is a blocking of free flow of water in the water channel, we are inclined to dispose of this writ petition on the following terms:

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- (i) The third respondent is directed to pay a sum of Rs.25,000/- to the petitioner, which was paid by him to the Advocate Commissioner towards remuneration, within a period of two weeks from the date of receipt of a copy of this order.
- (ii) If the third respondent is not responsible, they can recover the same from Hindustan Petroleum Limited, in the manner known to law.
- (iii) Regarding payment of compensation, the petitioner is granted liberty to approach the appropriate forum for payment of compensation from the third respondent, if she is so advised.

6. With the above directions, the writ petition is disposed of. No costs.

Index : Yes / No
Internet : Yes
ps

[D.K.K.,J.] [R.V.,J.]
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ORDER MADE IN
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