



W.P.No.23016 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.23016 of 2024
and
W.M.P.No.25098 of 2024

S.Anbzhagan

... Petitioner

Vs.

1.The Principal Secretary to Government,
Public Works Department (PWD),
Fort St. George,
Chennai – 600 009.

2.The Collector,
Collectorate Campus,
Kanchipuram,
Tamil Nadu – 631 501.

3.The Chief Engineer,
Water Resources Department,
Chennai Region, Chennai – 600 005.

4.The Executive Engineer,
PWD Buildings,
No.1, II Floor,
Collectorate Campus,
Kanchipuram,
Tamil Nadu – 631 501.

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5.The Assitant Engineer,
Padappai,
Kanchipuram District,
Tamil Nadu – 601 301.

6.M/s.Ruby Builders and Promoters,
Rep. by its Chairman and its Managing Director,
Mr.Ruby R Manoharan,
No.247/B, Velachery Main Road,
Selaipur, Chennai – 600 073.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st to 5th respondents to maintain the width of 40 feet Odai flowing from South to North in Survey No.40 of Varadharajapuram Village, Kancheepuram District, adjoining the western side of the petitioner's patta land in Survey No.42 and 43/2A1, Varadharajapuram Village, Kanchipuram District.

For Petitioner : Mr.K.Mohanamurali

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader [R1 to R5]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Mandamus, to direct the respondents 1 to 5 to maintain the width of 40 feet Odai flowing from South to North in Survey No.40 of



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Varadharajapuram Village, Kancheepuram District, adjoining the western side of the petitioner's patta land in Survey No.42 and 43/2A1, Varadharajapuram Village, Kanchipuram District.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 5. In view of the limited nature of the order this Court proposes to pass, the writ petition itself is taken up for final disposal without ordering notice to the sixth respondent.

3. The case of the petitioner is as follows :

(i) The petitioner is the absolute owner of the properties in S.Nos.42 and 43/2A1 at No.111, Varadharajapuram Village, Kundrathur Taluk, Kanchipuram District. He inherited the subject properties through a registered settlement deed executed by his mother in his favour vide doc.No.3991 of 2012 dated 18.6.2012 on the file of the Sub-Registrar, Padappai, Kanchipuram District. The records were also mutated in his name and a patta was issued to him.



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(ii) According to the petitioner, there is a odai in S.No.40,

Varadharajapuram Village flowing from Padappai to Manimangalam Village running from north to south of the western side of his property at S.No.42 and it is being maintained by respondents 2 to 5. On the southern side of Vandalur Oragadam Road and in front of the property developed by the sixth respondent, there is a water canal built specifically to accommodate the excess flow of water from the odai in S.No.40 and it is not maintained by respondents 2 to 5, as a result of which, there is an excess flow of water in the subject properties.

(iii) While developing the property, the sixth respondent dumped the used building materials in the western side of their property and due to huge deposit of the rubbish used building materials, the odai in S.No.40 was totally blocked, pursuant to which, excess water flows into the subject properties. Further, respondents 3 to 5 brought machines for excavating and started digging the subject properties and is attempting to make another pathway for the odai in S.No.40. Though respondents 2 to 5 are in the process of widening the odai in S.No.40, at the instance of the occupants of the property developed by the sixth respondent, respondents 2 to 5 dug the



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subject properties to divert the water flow.

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(iv) Expressing his grievance, the petitioner sent a representation dated 01.7.2022 to the respondents seeking to restore the odai by widening and cleaning for the free flow of water. Instead, respondents 3 to 5 illegally entered into the patta lands of the petitioner and started widening the breach in the subject properties. Hence, earlier, the petitioner was constrained to file W.P.No.28022 of 2022 seeking to take immediate action to set right the existing water canal and it was disposed of by an order dated 26.10.2022 after recording the affidavit filed on behalf of respondents 1, 3 and 5. The petitioner also filed a contempt petition before this Court for the failure on the part of the official respondents contrary to the affidavit filed before this Court. However, the contempt was closed.

(v) Even thereafter, the fifth respondent continues to bring the excavator and started digging the subject properties. Further, the petitioner filed a complaint before the Inspector of Police, T-10 Manimangalam Police Station in that regard. Though the petitioner made an application through online to the Tahsildar, Kundrathur Taluk seeking to survey the subject properties, nothing was forthcoming. Hence, the petitioner filed another writ



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petition in W.P.No.34683 of 2023 and it is still pending. Subsequently, on 27.12.2023, the revenue officials inspected the subject properties and conducted a survey by laying the stones. If respondents 2 to 5 are permitted to do their illegal digging into the subject properties, the petitioner will be put to great loss and hardship. Hence, the petitioner is before this Court.

4. This Court carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

5. It is not in dispute that the petitioner is the owner of the subject properties. For no fault on the part of the petitioner, the official respondents are allegedly digging the subject properties. This Court cannot conduct a inquiry into the dispute between the petitioner and the official respondents. At best, the petitioner can be permitted to file a representation before respondents 3 to 5.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to file a representation before respondents 3 to 5 within a period



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of two weeks from the date of receipt of a copy of this order along with all necessary documents and a copy of this order. On receipt of such a representation, the Authority concerned shall consider the grievance of the petitioner and pass appropriate orders on merit and in accordance with law within six weeks from the date of receipt of such a representation. No costs. Consequently, the connected writ miscellaneous petition is closed.

13.08.2024

Index : Yes/No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes/No
sp

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