



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.5384 of 2024

Mrs.Saraswathy

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Petitioner

vs

The District Collector
Collector Office
Coimbatore – 641018.

2.The Corporation Commissioner
Corporation Commissioner Office
Coimbatore – 641 018.

3.The Tahsildar
Tahsildar Office
Coimbatore South Taluk
Coimbatore.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 06.02.2024 by stopping the widening of the drainage work since they have not followed the acquisition procedure by issuing notice or compensation for the petitioner's land situated at Door No.161, Kamarajar Road, Uppilipalayam (Post), Coimbatore measuring about 280 sq.ft.



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W.P.No.5384 of 20



For Petitioner : Mr.B.Thirumalai

For Respondents : Mr.M.Venkateswaran, Spl.GP for R1 to R3.
Mr.N.Umapathi, Standing counsel for R2.

ORDER

The case of the petitioner is that she purchased the property to an extent of 1750sq.ft by way of two registered sale deeds vide Doc.Nos.1104 and 1105 of 1993 dated 04.03.1983. Thereafter, she had put up the superstructure for 1400sq.ft and paying necessary tax to the authorities. During the year 1995, the 2nd respondent formed drainage formation work to an extent of 70sq.ft. For which, the petitioner's husband had earlier given a complaint and the petitioner's husband died 11years back. Now, the respondents 2 and 3 have marked the petitioner's land for about 280sq.ft for widening of drainage without her consent or notice or intimation. On 06.02.2024, the petitioner sent a detailed representation for stopping the widening work for drainage formation. As on date, the respondents have not taken any action on the representation of the petitioner, hence, the present writ petition.

2. The learned standing counsel for the second respondent filed a counter wherein it is stated that ongoing reconstruction of storm water drain



in Ward No.54, Kamarajar Road, Coimbatore City Municipal Corporation

East zone under the capital Grant Fund 2023-2024 was sanctioned for a length and width of 2,204m and 2.00m respectively vide Administration Sanction No.21062/2023/SS2 dated 07.08.2023 and Technical Sanction No.4054/2023/MD2 dated 11.08.2023, the work is being carried out under the funding of Capital Grant Fund 2023-2024, the work order was also issued to M/s.Abhi Associates vide Roc.No.4054/2023/MD2 dated 21.09.2023. The marking of “CH1640” made on the compound wall of the petitioner's property is merely a chainage reference number used to mark the length and slope of the drain in front of the petitioner's property. The said Kamarajar Road is an old arterial road that connects two National Highways viz., 544 and 81. The present storm water drain is in existence even prior to purchase of land by the petitioner and the construction of said storm water drain is false and the claim of widening the work is also baseless. The question of land acquisition and the award of compensation does not arise as the petitioner filed this petition solely on her assumption and apprehension that her property may be forcibly acquired. The petitioner has no issue with the presence of storm water drain at the existing width and the Corporation has no plans to change the width of the aforementioned storm water drain. Hence, he prays for dismissal of the writ petition.



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3. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 3 and the learned standing counsel for the 2nd respondent and perused the materials available on record.

4. This Court by an order dated 08.03.2024, directed the 3rd respondent to file a report along with FMB Sketch and other revenue records pertaining to the property. The third respondent by a letter in Na.Ka.783/2024/A5 dated 07.06.2024 filed a report after obtaining a report from the VAO, Revenue Inspector and Town Sub Inspector of Survey along with the FMB Sketch, rough sketch, photographs and Fazili of the Village, wherein it is stated that the petitioner is the owner of the land and there is an existing storm water drain in the Eastern side of the land. In the said property a width of 0.8m to the South and a width of 0.4m to the North i.e., an area of 0.006sq.m and also proposed to be widen the old sewage canal to a width of 1.6mtr to the South and a width of 1.3mtr to the north have been marked to an extent of 15.sq.mtr in addition to the existing old canal. The existing old waste water channel is 6sq.mtr and the proposed marked area for extension to the existing canal is 15sq.mtr. The said report has been



prepared based on the report and the rough sketch given by the Town Surveyor with the assistance of Revenue Inspector and the VAO.

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5. From the records, it is clear that the petitioner's land has been marked by the respondents for extension of existing storm water drain and the respondents denied that they are not going to do so, but mere marking is not sufficient and it is only an apprehension of the petitioner, the contention of the respondents is not acceptable by this Court. If the respondents are going to use more lands belonging to the petitioner, it will once again make a loss to the petitioner. This Court directs the 2nd respondent/Corporation Commissioner not to proceed further unless and until they decide the issue by payment of compensation to the petitioner for the land used by the respondents or to restrict the same length and width of the existing storm water drain.

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

26.07.2024.

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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V.BHAVANI SUBBAROYAN, J.

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