



W.P. No.12220 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.07.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12220 of 2024 and W.M.P. No.13312 of 2024

K.R.S. Meyvannan

....Petitioner

..Vs..

1. The District Collector,
Collectorate Complex,
Salem District, Salem – 636 001.
2. The Chief Planning Officer,
Collectorate Complex,
Salem District, Salem – 636 001.
3. The Municipal Commissioner,
Salem Municipal Corporation,
Salem – 636 001.
4. The Assistant Commissioner,
Hasthampatty Zone,
Salem Municipal Corporation,
Salem – 636 001.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India



W.P. No.12220 of 2024

seeking for a Writ of Mandamus forbearing the respondents from constructing the open sewage line in street situated in T.S. No.1/1A, Block 10, Ward-H, Hasthampatti Village, Salem and consequently, direct the respondents to lay the concrete road alone in the said street pursuant to the petitioner's representation dated 26.06.2023 and pass orders accordingly.

For petitioner : Mr. E. Sam Victor
For Respondents : Mrs.C. Meera Arumugam, for RR1 & 2
(Addl. Government Pleader)
: Mrs.N.Devi for RR3 & 4
(Standing Counsel for Salem Corporation)

ORDER

This Writ petition has been filed seeking for a Writ of Mandamus forbearing the respondents from constructing the open sewage line in street situated in T.S. No.1/1A, Block 10, Ward-H, Hasthampatti Village, Salem and consequently, direct the respondents to lay the concrete road alone in the said street pursuant to the petitioner's representation dated 26.06.2023 and pass orders accordingly.

2. It is the case of the petitioner that while there is a good



W.P. No.12220 of 2024

existing underground sewage in his living street, the respondents have proposed to lay Thaar Road and open sewage line on both sides of street causing to reduce the breath of the Road and started the Sewage Work accordingly. Hence, the petitioner has submitted representations dated 26.06.2023 along with residents of the same street against the construction of Thaar Road and Open Sewage on both sides of the street seeking to lay concrete road alone. The same has not been considered by the respondents. Therefore, the petitioner has come up with this Writ Petition.

3. The learned counsel for the petitioner submits that there are around 10 houses, one school and temple in the street wherein underground Sewage System has already been set up in the street towards River. All the houses as well as the school are connected with the said Underground Sewage System and the residents are using the same. While being so, all of sudden, the respondents have proposed to construct a Thaar Road and Open Sewage line on both the sides of the said Road. By this proposed work, the breath of the road will reduce causing difficulties to the residents in using of the street. Further, if the open sewage line is allowed to construct, it will create a very bad impact to the affects the respiration of people including



W.P. No.12220 of 2024

children living there.

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4.It has been further submitted by the learned counsel for the petitioner that in this regard, the petitioner along with residents of the street have sent a representation to the respondent seeking to not to construct open sewage and Thaar road. Even it has been communicated by letter dated 04.07.2023 from the District Collector, the said representation has been forwarded to the Municipal Commissioner/3rd respondent herein for consideration, there is neither reply nor order has been passed for the said representation. Hence, the petitioner has filed an application under RTI Act seeking for information regarding the said representation. In the report of the Assistant Engineer, it has been stated that there was no plan to construct such a Thaar Road and open Sewage on the said Road. While being so, suddenly, the respondents have started to construct a Thaar Road and Open Sewage line on both the sides of the said Road without considering the representation and bad impact caused to the residents including the children on the Street. Hence, the petitioner has filed the present Writ petition seeking the relief as stated therein.



W.P. No.12220 of 2024

5.The learned counsel for the respondents submits that the new underground sewerage system is meant to connect with proper level so that it could take the domestic waste from the house hold to the designated sewage treatment plant. As a matter of fact constructing the storm water drainage on both edges of the road will not reduce the width / breadth of the road in this case. The present width of the road is sufficient to accommodate the side drains and would allow free flow for men and vehicle in the said residential area.

6. It has been further submitted by the learned counsel for the respondents that in Reply dated 26.10.2023 for the letter under RTI Act, it has been informed that there is no proposal to either lay road or put up new drain by the Salem corporation. Further, the Respondents 3 and 4 have not taken any initiative to construct the drain or road in the said road. The digging work was started by the contractor's labourer engaged by the Public Works Department under MLA scheme and not by the respondents 3 & 4.

7.The learned counsel for the respondents further submits that while 40 feet wide street in the field, the petitioner has falsely stated as 5



W.P. No.12220 of 2024

feet wide street. The 5'0" wide road is located at the west of the petitioner's property where as the road in question is located at the north side of the property which is 40 feet wide in the field. Both the roads are shown clearly in the patta issued to one Mrs. Indhirani W/o. K.R. Sukumaran who is the mother of the petitioner.

8.It has been further submitted by the learned counsel for the respondents that the drainage structure at both the edges of the roads are necessary to dispose the storm water to the nearest water body even if the under Ground sewerage system is provided in the road and it would not effect the health of the residents in the locality. Hence, the Writ petition is liable to be dismissed.

9.Heard both sides and perused the material available on records.

10. Having considered the facts and circumstances of the case and submission made by the learned counsel on either side, it is seen from the sketch of the Layout and photographs that the road is at 40 feet and there



W.P. No.12220 of 2024

is some encroachment on the Road by the residents of the locality under the guise of growing of tree and shrubs in front of their house. Further, recording the submissions made by the learned counsel for the respondents, since the drainage structure at both the edges of the roads are necessary to dispose the storm water to the nearest water body even if the under Ground sewerage system is provided in the road and it would not effect the health of the residents in the locality, the respondents are directed to carry out the said work on war footing basis having made proper measurement and materials for construction of the same since raining season being approached and remove the encroachment if any on the road within a period of four weeks from the date of receipt of copy of this order. After completing the said Work, the respondents are directed to file a compliance report before this Court on or before 15.09.2024.

11. In view of the above direction, the Writ petition is disposed of. No costs.

18.07.2024

Index : Yes/No



W.P. No.12220 of 2024

Internet: Yes/No

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V.BHAVANI SUBBAROYAN, J.,

Lbm

To

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W.P.No.12220 of 2024 and W.M.P. No.13312 of 2024



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W.P. No.12220 of 2024

18.07.2024