



W.P.No.15754 of 2021//

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

AND

THE HONOURABLE Mr.JUSTICE P.DHANABAL

W.P.No.15754 of 2021

and WMP.Nos.16659, 16661 and 16663 of 2021

1.G.Raja

2.K.Sundar

.... Petitioners

vs

1. The State of Tamil Nadu rep.by its
Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai 600 009.

2.The Commissioner / Director,
Town and Country Planning,
Government of Tamil Nadu,
No.807, Anna Salai,
Chennai 600 002.

3.The Member Secretary,
The Mamallapuram Local Planning Authority,
Mamallapuram 603 104,
Chengalpet District.

4.The District Collector,
Chengalpet District,
Chengalpet.



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5. The Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet, Chengalpet District.
6. The Tahsildar,
Thiruporur Taluk,
Thiruporur, Chengalpet District.
7. The Commissioner/Block Development Officer,
Thiruporur Panchayat Union,
Thiruporur, Chengalpet District.
8. The Executive Officer,
Sri Arulmigu Nithyakalya Perumal Temple,
Thiruvudanthai 603 112,
Thiruporur Taluk,
Chengalpet District.
9. M/s. Arihant Homes,
rep. by its Managing Director,
No. 391, Mint Street,
Park Town, Chennai 600 003.
10. Andi
11. Prakasam
12. Palani
13. Deenadhayalan
14. Selvaraj
15. Neela
16. R. Nagammal
17. Andi
18. Ramakrishnan
19. Roji
20. Krishnan
21. Vishnukumar
22. Sivakumar
23. Janarthanam
24. Rukmani



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(R10 to 24 impleaded vide order dated 15.11.2021 made in
WMP.Nos.24969/2021 and 24981/2021)

25.The Deputy Salt Commissioner,
Government of India,
Shastri Bhavan, 2nd Floor, Block II,
No.26, Haddows Road, Chennai 600 006.
(R25 impleaded vide order dated 19.09.2022 made in
WMP No.2815/2022)

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration Declaring that the impugned order made in G.O.(2D) No.132 Housing and Urban Development (UD 4 (1) Department dated 17./07/2017 passed by the 1st respondent and its consequential notification issued by the 3rd respondent dated 14/09/2017 which has been published in the Tamil Nadu Government Gazette dated 20/09/2017 in so far as water bodies and temple lands in S.Nos.207 and 260 of Thiruvidadanthai Village, Thiruporur Taluk, Chengalpet District, is illegal and arbitrary consequently direct the respondents 2 to 8 to remove the encroachments made by the 9th respondent in the water bodies viz. Vannan Eari @ Thiruvaali Kuttai in S.No.207 and Ambal Eari in S.No.260.

For Petitioner	: Mr.M.R.Jothimanian
For R7	: Mr.T.Cheziyan Additional Government Pleader
For R9	: Mr.S.Prabakaran, Senior Counsel for M/s.Binita S.Vaiz
For R18 to 24	: Mr.Abinesh Babu



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ORDER

(Order of the Court was made by J.NISHA BANU,J.)

This Writ Petition has been filed by the petitioners challenging the impugned orders of the respondents 1 and 3, whereby permissions were granted for laying road across the water bodies / two lakes.

2. It is averred in the writ petition that the petitioners are residents of Thiruvudandhai Village and own certain extent of agricultural lands in the said Village. There are two lakes viz., Vannan Erari and Thiruvali Kuttai in S.F.No.207/1 and 260/1, respectively. Several lands are irrigated from the said two lakes and those lakes are main sources of drinking water for the said Village.

3. It is further averred in the writ petition that 9th respondent who purchased agricultural lands in the said village, converted the same into house plots. The 9th respondent made attempts to lay the road across both lakes by using JCB. To the said attempt, temple authorities and villagers made an objection. As against the illegal acts of the 9th respondent, petitioners approached the authorities including the District Collector. The application



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preferred by the petitioners was replied by the authorities by stating that the 1st respondent passed the impugned Government Order in G.O.(2D) No.132, Housing and Urban Development Department, dated 17.07.2017, granting permission for widening of 60 feet road based on the recommendations of the respondents 2 and 3. Based on which, on 14.09.2017, the 3rd respondent Member Secretary of the Mamallapuram Local Planning Authority, added the survey numbers of lakes and other private properties for road use.

4. According to the petitioners, the 2nd petitioner made representation to the respondent-authorities including the Hon'ble Chief Minister's Cell on 05.06.2020 to take action as against the illegal encroachment made by the 9th respondent in the lakes. In this regard, the 5th respondent / Revenue Divisional Officer, Chengalpet District, has directed the 6th respondent / Tahsildar, Chengalpet District, to take action with regard to alienation of water bodies. But the same is pending without any progress.

5. The learned counsel appearing for the petitioners submitted that the 3rd respondent / The Member Secretary colluded with the 9th respondent, recommended to the 2nd respondent for conversion of the said lakes to road.



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Based on the recommendations of the 2nd respondent, permission was granted by the 1st respondent vide impugned order dated 17.07.2017. The impugned Government Order was passed without following the procedures in respect of conversion of lands.

6. It is a matter of record that on 29.07.2021, this Court had stayed the operation of the impugned Government Order in G.O.(2d) No.132 dated 17.07.2017. Further this court granted an order of interim injunction restraining the respondents from proceeding with the work of laying roads until further orders.

7. Thereafter, when the matter was listed on 19.09.2022, this Court, considering the submissions made by the learned counsel on either side, by consent, granted liberty to the 9th respondent to approach the Government for demarcating the road portion and for laying the road. The order reads as under:-

"4. Having regard to the submissions made by the learned counsel on either side, by consent, we give liberty to the 9th respondent to approach the Government for demarcating the road portion and for laying the road. The



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order of injunction granted by the Court on 29.07.2021 shall not stand in the way of the Government passing an order on the request to be made by the 9th respondent. It is pertinent to note that the HR & CE Department, namely, the 8th and 10th respondents, in their counter, have stated that the widening of the road would be beneficial to the adjoining lands belonging to the HR & CE Department and therefore, the road should be widened for having better access to their lands. It is also open to the 8th and 10th respondents to approach the Government to redress their grievances."

8. Today when the matter is called, the learned senior counsel for the 9th respondent has produced the proceedings of the District Rural Development Agency (DRDA), District Collector, Chengalpet District, dated 27.10.2023 in Na.Ka.No.2035/2023/A10, wherein it is stated that under Namakku Naame Scheme, Thiruporur Panchayat, Rs.1,37,56,000/- has been allotted for strengthening of the road from Therkupattu road to Buckingham Canal road KM 0/0 -1/160 in Thiruvidanthai Panchayat.

9. The learned Government Advocate submitted that pursuant to the interim order passed by this court on 19.09.2022, the District Collector after making field inspection, suggested alternative land for widening of the road



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and allotted funds for the said work and the proceedings dated 27/10/2023 has been passed for strengthening of the road in Thiruvidanthai Panchayat.

10. In view of the subsequent development and the culmination of proceedings dated 27.10.2023 in Na.Ka.No.2035/2023/A10, passed by the District Collector, Chengelpet District, there is no need for passing further orders in this writ petition. The Writ Petition is disposed of with the above observation. No costs. Consequently connected miscellaneous petition is also closed.

(J.N.B., J.) (P.D.B., J.)

12.04.2024

sk/nvsri

Index : Yes / No

Internet : Yes / No

To

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Housing and Urban Development Department,
Secretariat, Chennai 600 009.

2. The Commissioner / Director,
Town and Country Planning,
Government of Tamil Nadu,
No.807, Anna Salai,
Chennai 600 002.



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4. The District Collector,
Chengalpet District,
Chengalpet.
5. The Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet, Chengalpet District.
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