



WEB COPY



W.P. No. 35526 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35526 of 2023

P.P.Thangavel

... Petitioner

-VS-

1. The District Collector,
Erode District,
Erode.
2. The District Revenue Officer,
Erode District,
Erode.
3. The Chief Engineer (H),
NABARD & Rural Roads,
1st Floor, Integrated Chief Engineer's Office,
76, Sardar Patel Road,
Guindy, Chennai - 25.
4. The Assistant Engineer (H),
NABARD & Rural Roads,
Gobichettipalayam,
Erode - 638452.
5. The Assistant Divisional Engineer (H),
NABARD & Rural Roads,
Gobichettipalayam,
Erode - 638452.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents herein to remove the constructing the culvert in between R.S. No. 421/2A1 to 423 in



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Elavamalai Village, Erode Taluk, Erode District which is obstructing the ingress and egress to the Petitioner property in R.S. No. 421/2A1, Elavamalai Village, Erode Taluk, Erode District by considering the Petitioner representation dated 03.11.2023.

For Petitioner : Mr. M.Guruprasad

For Respondents : Mr. P.Ganesan,
Additional Government Pleader

ORDER

Heard Mr. M.Guruprasad, Learned Counsel for the Petitioner and Mr. P.Ganesan, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The grievance ventilated by the Petitioner is that the culvert constructed between R.S. Nos. 421/2A1 to 423 situated in Elavamalai Village, Erode Taluk, Erode District is obstructing the ingress and egress to his property in R.S. No. 421/2A1, Elavamalai Village, Erode Taluk, Erode District, but the representation dated 03.11.2023 made by the Petitioner to the Respondents for its removal has not evoked any response necessitating the filing of this Writ Petition.



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3. In the Counter-Affidavit dated 31.01.2024 filed by the Fifth Respondent, it has been stated as follows:-

"2. It is submitted that a Major Project namely Formation of Bypass to Bhavani town km 4/582-8/189 (Phase-II) was executed by the Erode (H), Nabard and Rural Roads wing for which the alignment was approved by three Superintending Engineer category committee on 04.10.2012 and the Land acquisition was done based on it. The administrative sanction was given through G.O. (Ms) No.44 Highways and Minor Ports (HS1) Department dated 29.03.2022 and the estimate was Technically sanctioned on 30.06.2023 by the Chief Engineer(H) Nabard and Rural Roads, Chennai after got approval from Technical Audit Committee(TAC).

3. It is submitted that during land acquisition 0.12.50 hector land was acquired from the Petitioner in R.S. No:421/2A for which final award was passed by the Land Acquisition Officer



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cum District Revenue Officer, Erode vide Final award

No:11/2020/ Lr.No:14524/2013/A1/dated:16.10.2023. Land

acquisition amount was paid award and the above acquired

Petitioner land was marked new subdivision as R.S.No:421/2A2

which was handed over to possession of Highways on

20.01.2021. The balance land in subdivision R.S.No:421/2A1 and

421/2A3 are under possession of the Petitioner.

4. It is submitted that the Petitioner stated dispute Box

Culvert has been constructed in above acquired land in

R.S.No:421/2A2. The width of land acquired at this location is

30m and the dispute Box Culvert has been constructed for 10m

width across Bypass road. There is 14.0 m width Highway vacant

land available in between newly constructed Box Culvert and the

Petitioner's land boundary. So there is no hindrance for access to

the Petitioner's property from Highways road. Also the Petitioner

had 72.40m length of land along Highways bypass road on his

balance property in R.S.No: 421/2A1 and Highway vacant land of

1 2m to 14m width available from newly formed Bypass road for



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this entire length portion. Hence, the Petitioner may enter the Highways road in anywhere of his property. The evidence of photos and drawings were kindly submitted for these details.

5. *It is submitted that during the construction of this Box Culvert, the Petitioner raised the objection and send the petition dated 25.10.2023 to Highways office. Based on it, site was inspected and the construction location was changed for 10m on west side from Ch:6510 to Ch:6500 to avoid obstruction to his existing earthen pathway. The site situation may also explained directly to the Petitioner during the above site inspection itself.*

6. *It is submitted that, after the above process, the Petitioner submitted further petition to the Higher officials of Highways Department dated on 03.11.2023 and the action taken report has been submitted to higher officials from this office through Lr.No:11/bypass/2023/JDO/Dated:10.11.2023. The Assistant Engineer(H), NABARD & Rural Roads, Gobi also send reply to the Petitioner for his representation letter dated 25.10.2023 vide*



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LrNo: 10/ Bypass/ 2023/ AE/ dated: 18.01.2023 (Received
acknowledgement card) and the reply letter has been send from
Assistant Divisional Engineer (H), NABARD & Rural Roads,
Gobi VideLr. No:19/Bypass/2024/JDO/Dated: 24.01.2024.

7. It is submitted that the Petitioner land lies on south side of
bypass road. The north side lands of Bypass road have west to
east and north to south side ground slope. There is a panchayat
common road pass through R.S.No:422, 423 in front of Petitioner
Land from north to south which create junction with Bypass road
at R.S.No:421/2A2. The storm water run and along both side of
this Panchayat common road from north to south slope gradient
and hence two box culverts are proposed at the above junction so
that water cross the newly formed bypass road. These two box
culverts with 1.0m vent way size at Ch.6500 and Ch.6540 has
been constructed as per the approved estimates only and hence
there is no deviation occurred in the construction of above
disputed box culvert. So the Petitioner stated in his petition is not
true.



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8. *It is submitted that there is no any obstruction for the Petitioner's ingress and egress to the Petitioner property from newly formed bypass road by the construction of above small size box culvert with 1.0m vent way Since there is sufficient highway vacant land available in between Petitioner land boundary for 72.40m length and bypass road. It is therefore prayed that this Hon'ble Court may be pleased to dismiss the above Writ Petition as devoid of merits and thus render justice."*

In view of the said factual position borne out of the record, nothing remains for further consideration in the Writ Petition.

In fine, the Writ Petition is disposed. No costs.

12.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 18.04.2024.

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To



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P.D. AUDIKESAVALU, J.

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