



W.P.(MD)No.16001 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.16001 of 2024

K.M.Gopinath

...Petitioner

-Vs-

1.The Executive Engineer,
Public Works Department(W.R.O),
Gundar Basin Division, Tallakulam,
Madurai - 2

2.The Assistant Executive Engineer,
Public Works Department(W.R.O),
Gundar Basin - Kariapatti Sub Division,
Virudhunagar District – 626 106.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to the Impugned Order in Lr.No.131/ VaPa / EVaA2/Ko.26/2024 dated 19.06.2024 on the file of the 1st respondent and quash the same and further direct the respondents to issue Non Objection Certificate in favour of the petitioner for using the service road situated in between the northern side of the petitioners land in Survey No. 14/1C1, 14/1C2 and 14/2C1 and the Chennampatti (Left) Kalvaai in Survey No. 14/1B, 14/2B at Iluppakulam village, Kallikkudi Tauk, Madurai District as his pathway with appropriate condition.



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For Petitioner : Mr.N.Karthikkanna

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

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ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 19.06.2024, thereby rejected the request made by the petitioner seeking permission to use the service road situated in between the northern side of the petitioner's land in survey No.14/1C1, 14/1C2, 14/2C1 and the Chennampatti(Left) Kalvaai in survey No.14/1B, 14/2B at Iluppakulam Village, Kallikudi Taluk, Madurai District.

2. The petitioner has owned the property comprised in survey No.14/1A, 14/1C & 14/2C1 situated at Iluppakulam Village, Kallikudi Taluk, Madurai District to an extent of 2 acres 23 cents. The northern side of his land, there is water channel called Chennampatti Kaalvaai. The State Government has built the said supply channel as the part of Chennampatti Kalvaai project connecting the Chennampatti Dam with 12 Kanmais for which the land was also acquired during the year 1980. In fact, the part of the petitioner's land was also acquired in S.No.14/1A to an extent of 41 cents and a mud road measuring about 7 meter width was laid along the shore the channel it is and used by the all the general public as road.



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3. While being so, the petitioner intended to develop his land and approached the authorities concerned for approval. The petitioner was directed to obtain No Objection Certificate from the Public Works Department to use the said road. Therefore, the petitioner submitted a request before the first respondent for issuance of No Objection Certificate. However, it was rejected on the ground that the petitioner is not permitted to use the road, since the water canal is used for 12 Kanmais for irrigating the agricultural field. That apart, the said road has been laid by acquisition of land from the private parties.

4. A perusal of the counter affidavit filed by the first respondent and the submission made by the learned Counsel appearing for the respondents reveals that Chennampatti anicut has been constructed across Goundanathi near Chennampatti Village, Kallikudi Taluk, Madurai during the year 1986-1992. In this scheme, two main sluices were constructed in this anicut to give supply through left main canal and right main canal to an extent of left main canal is 15785 metre and length of right main canal is 15790 metre. It is only used for the purpose of inspecting the vehicle of the department. It is acquired for the purpose of Chennampatti anicut scheme and the area of canal bank track portion is for the expansion of the project, if any arises in future and it could not be allotted to any private person for their own commercial purpose.



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5.The learned Counsel for the petitioner points out that when a similar request made by the other persons for the very same property, the first respondent may permit to use the road by the person who intends to develop his property. He also produced the photographs of the water channel. The similarly placed person was granted permission dated 06.10.2023, with certain conditions.

6.A perusal of the photographs shows that it is the 7.2 metre road and in fact, it was laid from the lands which were acquired by the petitioner and the other adjacent owners. Therefore, it can be used as public road and it will not affect the water channel at any cost.

7.In view of the above, this Court finds infirmity in the order passed by the first respondent and is liable to be quashed. The petitioner is permitted to use the service road situated in between the northern side of the petitioners land in Survey Nos.14/1C1, 14/1C2 and 14/2C1 and the Chennampatti (Left) Kalvaai in Survey Nos.14/1B, 14/2B at Iluppakulam village, Kallikkudi Tauk, Madurai District as pathway with conditions as imposed, by the permission dated 06.10.2023 granted in favour of one Mr.Karuppaiya and Mr.Raja, residing at



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K.Pudur Madurai in the letter dated 441-M, dated 06.10.2023.

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8.The first respondent is directed to issue No Objection Certificate in favour of the petitioner for use of lands in between the northern side of the petitioners land in Survey Nos.14/1C1, 14/1C2 and 14/2C1 and the Chennampatti (Left) Kalvaai in Survey Nos.14/1B, 14/2B at Iluppakulam village, Kallikkudi Tauk, Madurai District within a period of two weeks from the date of receipt of a copy of this order.

9.With the above said directions, this writ petition stands allowed. No costs.

02.12.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

G.K.ILANTHIRAIYAN. J,



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RJR

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