



W.P.(MD).No.24480 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.24480 of 2016

and

W.M.P.(MD)No.17667 of 2016

D.Roselet Anitha

...Petitioner

Vs

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Executive Engineer,
Water Resource Organization,
Public Work Department,
Kodayar Basin Division,
Nagecoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent proceeding No. 1814/2016/E2 dated 26.09.2016 and quash the same as illegal, consequently directing the respondents to permit lay the Steel Bridge at 12/907 of Thovalai Water channel across to the petitioner properties forthwith.



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For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

Heard Mr.N.S.Ramakrishna Dass, learned counsel for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate for the respondents.

2. This Writ Petition has been filed challenging the order passed by the second respondent dated 26.09.2016 and to consequently directing the respondents to permit lay the Steel Bridge at 12/907 of Thoivalai Water channel across to the petitioner properties forthwith.

3. The case of the petitioner is that a water channel is located opposite to her property, and to facilitate easy access to the other side, she had requested permission from the second respondent to construct a steel bridge. The learned counsel for the petitioner petitioner would submit that without considering the request of the petitioner in a proper



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prospective and in a casual manner, the authorities had rejected the request of the petitioner on the ground that there are intervening properties belonging to other private individuals between the petitioner's property and the water channel. He would further submit that the second respondent misinterpreted the petitioner's claim. He clarified that the petitioner had been accessing the other side of the canal by placing two coconut trees across the channel, supported by the bund. The petitioner now seeks to replace these coconut trees with a steel bridge, a facility already permitted for other private individuals. Therefore, he prayed that the impugned order be set aside and the respondents be directed to grant permission for the construction of the steel bridge.

4. Countering his arguments, the learned Government Advocate appearing for the respondents would submit that a prior dispute existed between the petitioner and the adjacent landowner regarding encroachment of the bund by the adjacent landowner. He pointed out that the first respondent had passed orders in this regard, which were subsequently affirmed by the Division Bench of this Court. He would further submit that permission has been granted to private persons who



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did not have a common access for approaching their land by putting up a bridge at their own cost. However, in the case of the petitioner, he would submit that there exists one permanent bridge and two temporary bridges, which already provide access to the other side from her property. In light of these available public bridges, he argued that there is no necessity to consider the petitioner's request for a private bridge. Therefore, he submitted that the impugned order is reasonable and does not warrant interference from this Court.

5. At this juncture, the learned counsel for the petitioner would submit that the petitioner is, in fact, not allowed to use the aforementioned bridges, which compelled her to file an application seeking permission to construct her own private bridge.

6. I have considered the submissions made on either side and perused the materials available on record.

7. It is not in dispute that there are three bridges available across the water channel, in close proximity to the petitioner's property.



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However, the petitioner contends that she is being denied access to these bridges. On the other hand, the respondents claim that these three bridges are public bridges, and the petitioner can use them to access the other side. In such an event, even though I am not inclined to entertain the writ petition as prayed for by the writ petitioner, I am inclined to hold that the petitioner is entitled to use the bridges identified by the respondents in the plan annexed at page 1 of the typed set. Since the respondents have conceded that these bridges are public bridges, they shall ensure that the petitioner has unhindered and free access to the three bridges located at LS No. 12.900 km, 12.820 km and 12.650 km.

8. With the above said direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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K.KUMARESH BABU, J.

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