
(2022) 09 KL CK 0104

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24666 Of 2022

Paul John

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 20-09-2022

Acts Referred:

Citation : (2022) 09 KL CK 0104

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : N.L.Bitto, Philip T.Varghese, Syamanthak B.S.

Final Decision : Dismissed

Judgement

N. Nagaresh, J

1. The petitioner is aggrieved by the construction of a drainage in Aloor Grama Panchayat. The petitioner states that he is owner of 75 Cents of land along with a residential building. He runs a fish farm in his property.

2. The petitioner's residence is at a place called Vaniyampadam. The area is already suffering from waterlogging problems. There is no proper drainage through Vaniyampadam. The construction of the proposed tunnel by the respondents will create waterlogging in Vaniyampadam.

3. The petitioner would state that the respondents have not made any study with respect to the feasibility and consequences of the construction of tunnel/drainage. Construction of such a drainage from Ward No.12 to Ward No.13 will result in flood in rainy season. Hence, the respondents are compellable to consider Exts.P4 to P6 representations and take a decision thereon dropping the construction of the drainage from Ward No.12 to Vaniyampadam in Ward No.13 of Aloor Grama Panchayat.

4. The Standing Counsel entered appearance on behalf of the 3rd respondent-Grama Panchayat. On behalf of the 3rd respondent, it is submitted that

construction of the drainage is intended to reduce the waterlogging problem on public roads and to reduce chances of accidents. Annallur Karur Kuzhikkattussery is a road maintained by the 4th respondent-Assistant Engineer, PWD. The road has been facing waterlogging issues.

5. The 3rd respondent submitted that water flowing from the upper side of the road was flowing along a drain passing near a Colony which was constructed using the funds of the 3rd respondent-Panchayat. The drain was not enough to contain the heavy flow of water and therefore the 4th respondent proposed a project for constructing a drain by the side of Kannallur Karur Kuzhikkattussery Road and connecting through a culvert crossing the State Highway at Vaniyamapadam. The decision to construct the drain was taken by the Panchayat on 26.08.2022, adverting to the petitioner's complaint also, pointed out the Standing Counsel.

6. I have heard the learned counsel for the petitioner, the learned Government Pleader representing respondents 1, 2 and 4 and the learned Standing Counsel for the 3rd respondent-panchayat.

7. The grievance of the petitioner is that the proposed drainage being constructed from Ward No.12 to Ward No.13 is likely to create waterlogging problem and therefore the construction is to be stopped and dropped. It is evident from the counter affidavit filed by the 3rd respondent that the area suffered consistent waterlogging issues and the Kerala Public Works Department with a view to protect the Annallur Karur Kuzhikkattussery Road has initiated the project of construction of a new drainage. The project envisages constructing a drain by the side of Annallur Karu Kuzhikkattussery Road and connecting the same through a culvert crossing the National Highway at Vaniyampadam.

8. The respondents, after examining the waterlogging issue, found that if the entire water from higher areas is permitted to flow through the canal, it would result in waterlogging in Ward No.13, as Ward No.13 is at a lower level. In the circumstances, the 3rd respondent requested the 4th respondent to construct a retaining bund of 1 feet height so that only overflowing water was allowed to flow through the culvert. This Court finds that the construction of the tunnel/drainage is in the larger interest of the general public and the petitioner has not advanced sufficient reasons to interfere with the project.

The writ petition therefore fails and consequently, it is dismissed.