
(2014) 03 MAD CK 0114
In the Madras High Court
Case No : Writ Petition No. 982 of 2014

S. Gurushankar

APPELLANT

Vs

The Commissioner

RESPONDENT

Date of Decision : 28-03-2014

Acts Referred:

Tamil Nadu Town and Country Planning Act, 1971 — Section 49

Citation : (2014) WritLR 538

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Judgement

V. Dhanapalan, J.—The Proprietor of Meenakshi Hospital, Thanjavur, viz. Dr. S. Gurushankar is before this Court with the above Writ Petition for a direction to the respondents to connect the sewerage water drain from Meenakshi Hospital, Nilagiri Village to the underground drainage system of Thanjavur Municipality on the basis of his representation dated 22.06.2013. According to the petitioner, because of the demand from large sections of people of Thanjavur Town and neighboring areas, requesting him to establish a hospital with multi-speciality Life Saving facilities, inasmuch as there is no such multi-speciality Hospital within a radius of 120 kms from Thanjavur, he ventured to establish the said hospital in public interest in a small Town like Thanjavur. Even though Thanjavur and surrounding areas are thickly populated, for best health care facilities, people had to rush to either Pondicherry on the northern side or Trichy on the southern side to get treatment due to lack of health care facilities in Thanjavur. The sole driving force and intention for the petitioner is to establish a Hospital in public interest in a smaller town like Thanjavur and not in a bigger city like Madras or Coimbatore. Recently, the petitioner has completed construction and started operations of the said Hospital at Thanjavur, which has been designed to provide world-class health care to the people of Thanjavur at an affordable cost.

2. Some of the special features of Meenakshi Hospital are:

First Hospital in Thanjavur to have Cardiology and Cardiothoracic Surgery

Department.

First Hospital confirming to N.A.B.H. standards in Thanjavur

First IT enabled hospital in Thanjavur.

First Hospital in Thanjavur with Laminar flow activated Operation Theatres

First zero-infection OT complex in Thanjavur.

Largest laboratory infrastructure in Thanjavur

State-of-the-art Blood Bank

Largest imaging facility in Thanjavur with CT Scan & MRI

Most reliable and largest Intensive Care facility in Thanjavur.

24/7 critical care facility

DEPARTMENT OF CARDIOLOGY:

First Flat Panel fixed Cathlab in Thanjavur

State-of-the art Cardiac ICU

First facility for interventional cardiology in Thanjavur

Renowned Interventional Cardiologists

Only facility to perform Coronary

Angioplasty in Thanjavur. Before the functioning of this Hospital, if someone in Thanjavur had a heart attack and needed treatment by Angioplasty, the nearest centre was in Trichy which is one hour twenty minutes by road. By this time, the patient with heart-attack would lose his life. Now these Life Saving facilities are available at "Meenakshi Hospital" in Thanjavur itself and hence several lives of people are saved by the Hospital everyday.

Trained Cardiac Technicians and Nurses.

DEPARTMENT OF CARDIOTHORACIC SURGERY:

First Cardiothoracic unit in Thanjavur

State-of-the-art CTS ICU

Experienced Cardiac Thoracic Surgeons and Surgical Team

Well-trained Cardiothoracic technicians and nurses.

DEPARTMENT OF NEPHROLOGY:

State-of-the-art Dialysis Centre

Only centre in Thanjavur to have 10 Dialysis Units.

Only centre in Tamil Nadu to perform Dialysis at a very low cost of Rs. 600/-
Experienced Nephrologists and Technicians DEPARTMENT OF ACCIDENT & EMERGENCY:

State-of-the-art Trauma care facility Only hospital in Thanjavur to provide comprehensive trauma care with departments like Accident and Emergency, Neuro Surgery, Orthopedics, General Surgery, Urology, Gastroentology - all under one roof.

"Golden Hour" care unavailable.

Hi-tech ambulances.

Exclusive triage facility.

3. Though the Hospital is situated within the jurisdiction of Nilagiri Village Panchayat, the limits of Thanjavur Municipality begin within a distance of 1500 M from the hospital. Therefore, the petitioner submitted a representation on 15.03.2012 to the President, Nilagiri Panchayat, requesting that the hospital premises be connected with the underground drainage system in that area. The Nilagiri panchayat had also passed a Resolution dated 09.04.2012 deciding to recommend the above application to the Commissioner, Thanjavur Municipality. In the meantime, the petitioner had also addressed an application dated 11.04.2012 to the Commissioner, Thanjavur Municipality and Chairman, Thanjavur Municipality seeking special permission to connect the hospital premises to the underground drainage system of Thanjavur Municipality. Pursuant thereto, the President, Nilagiri Panchayat had also addressed a letter dated 06.08.2012 to the Commissioner, Thanjavur Municipality requesting that linkage be provided with the underground drainage system to the hospital. By a letter dated 09.10.2012 addressed to the Commissioner, Thanjavur Municipality, the Chairman, Thanjavur Municipality had recommended and requested the Commissioner to pass a resolution to connect the hospital premises to the underground drainage system of Thanjavur Municipality.

4. The petitioner had also made a representation dated 29.01.2013 to the Minister for Municipal Administration and Rural Development and the same had been forwarded by the Minister to the Commissioner of Municipal Administration for suitable action. By his letter dated 30.01.2013, the Commissioner of Municipal Administration forwarded the petition to the Regional Director of Municipal Administration for his action and comments. In the meantime, the Commissioner, Thanjavur Municipality, by his letter dated 27.02.2013 had called for a report from the Executive Engineer, Underground System, TWAD, Thanjavur on the feasibility of giving a connection to the hospital premises.

5. As there was no response from the concerned authorities, aggrieved by the same, the petitioner preferred a Writ Petition in W.P. No. 8679 of 2013 before this Court seeking a direction to the Commissioner of Municipal Administration to consider and pass orders on his representation and this Court, by an order dated

17.04.2013 directed the Commissioner, Municipal Administration and Water Supply Department to consider and pass orders within a period of six weeks from the date of receipt of a copy of the order. The Assistant Executive Engineer, Underground System, TWAD, Thanjavur, had submitted a Report to the Commissioner, Thanjavur Municipality stating that the hospital premises could be connected to the underground drainage system in Thanjavur Municipality at a total length of 1750 M.

6. While so, the petitioner received a letter dated 10.06.2013 from the Commissioner, Municipal Administration, Chennai directing the petitioner to approach the Thanjavur Municipality with respect to the request of the petitioner regarding connection with underground drainage system. Hoping that sincere actions would be taken, the petitioner submitted a further representation dated 22.06.2013 to the respondents herein citing the order of this Court and the letter dated 10.06.2013 of the Commissioner, Municipal Administration, Chennai. Since there had been no action by the authorities from 11.04.2012, the date on which his first application was made, the petitioner is again before this Court.

7. Today, the Commissioner, Thanjavur Municipality, the 2nd respondent herein has filed counter affidavit, in and by which, he has stated that Meenakshi Hospital is situated in Nilagiri Village Panchayat limit and not within the Thanjavur Municipal limit and therefore, Thanjavur Municipality is unable to implement the resolution passed by Nilagiri Village Panchayat Board as well as the recommendation submitted by the President of Nilagiri Panchayat. In pursuance of the communication from the Additional Director of Municipal Administration in D.O. No. Koo.E./1/2013 dated 30.01.2013 to initiate action on the letter submitted by the Hon"ble Home Minister of Tamil Nadu Government, the 2nd respondent sought opinion from the 3rd respondent as to whether there was any possibility of providing Underground Drainage to Meenakshi Hospital.

8. The 2nd respondent would further state that as per the order dated 17.04.2013 passed by this Court in W.P. No. 8679 of 2013, the 1st respondent vide R.O.C. No. 13508/2013/UGSSI, dated 10.06.2013 has duly communicated to the petitioner, the action taken on the petition submitted by him. The Thanjavur Municipality has also obtained opinion from the Assistant Executive Engineer, Tamil Nadu Water Supply & Sewerage Board, vide his letter No. 1904/Ko/Thanjavur Pasadhi/2013/U/Ni.Po dated 19.04.2013. Pursuant to the same, the petitioner submitted a representation on 22.06.2013 to the Thanjavur Municipality to provide Underground Drainage facility and the said petition is under the consideration of the 2nd respondent.

9. According to the 2nd respondent, since Meenakshi Hospital is not situated in Thanjavur Municipal limit, the request of the petitioner to provide Underground Drainage facility has been placed before the Municipal Council and the said fact has been communicated to the petitioner by Thanjavur Municipality on 20.01.2014 and the Municipal Council in its Resolution No. 985, dated 30.01.2014 has resolved to send necessary proposal to the Government, subject

to some conditions. Based on the said Resolution, a letter has been sent to the petitioner vide Office letter No. 1273/2013/E3 dated 01.02.2014 as to whether he would agree to the conditions laid down by the Council. He has also requested to send his consent vide Rs. 20 Stamp Paper, if he agrees to the conditions. After receipt of the same, necessary proposal will be forwarded to the Government through the Commissioner of Municipal Administration for necessary permission. The 2nd respondent has also mentioned in the counter that the Commissioner of Municipal Administration is not a proper and necessary party to this Writ Petition. He would further state that the President of Nilagiri Panchayat had also passed a resolution on 04.04.2012 and therefore, the petitioner's representation will be considered within a period of four months.

10. On the background pleadings, I have heard the learned counsel for the parties and perused relevant materials annexed in the typed set of papers.

11. The aim and object of establishment of Meenakshi Hospital in Thanjavur is considering the need of the people in that area and the population factor. It is seen that the petitioner has completed construction of the hospital and it has also started functioning. As the need for connecting the sewerage water drain from Meenakshi Hospital, Nilagiri Village to the underground drainage system of Thanjavur Municipality arose, the petitioner made a representation to the authorities concerned and a due Resolution has been passed by the local authority as well as the local planning authority. As also, the Assistant Executive Engineer, Underground System, TWAD, Thanjavur has been directed by the authority concerned to examine the feasibility of connecting the sewerage water drain to the Underground Drainage system of the petitioner Hospital and submit a Report to that effect. The Report says that the Hospital could be connected to the Underground Drainage system in Thanjavur Municipality at a total length of 1750M.

12. Learned counsel for the petitioner, on instructions from the petitioner, would submit that the petitioner is prepared to accept the expenses towards civil works required to connect the sewerage water drain from Meenakshi Hospital to the underground drainage system of Thanjavur Municipality and is also prepared to give indemnity bond and furnish security for that purpose. Further, he would submit that the petitioner is prepared to give an undertaking accepting the terms proposed by the respondent Municipality.

13. When this matter came up for hearing on 21.03.2014, it was brought to the notice of this Court that Thanjavur has been upgraded to the level of Corporation as per the Government's decision vide G.O.Ms. No. 23, Municipal Administration and Water Supply Department, dated 17.02.2014 (under Tamil Nadu Act 24 of 2013), which came into force from 19.02.2014 and therefore, the Commissioner, Corporation of Thanjavur has been impleaded as a party in this matter and the 2nd respondent, in the capacity of the Commissioner, Thanjavur Municipality now comes within the jurisdictional limit of the Corporation of Thanjavur and therefore, it is for the Commissioner, Corporation of Thanjavur to take a decision

in this matter.

14. Learned Special Government Pleader, on instructions from the respondents, would inform that as on date, there is no demarcation of Corporation limit and there is every likelihood of the petitioner Hospital to come under the jurisdictional limit of Thanjavur Corporation.

15. Such being the position, as the Corporation is a local authority under the control of the affairs of the Government and as there is a Report by the Assistant Executive Engineer, Underground System, TWAD, Thanjavur to the effect that there is feasibility of connecting the hospital premises to the underground drainage system in Thanjavur at a total length of 1750m, the claim of the petitioner has to be considered by the respondents. In this regard, the Commissioner, Thanjavur Municipality has sent a letter dated 20.01.2014 vide Na.Ka. No. 1273/2013/E3 to the petitioner stating that his request with regard to the connection of sewerage water drain of his Hospital to the Underground Drainage System has been placed before the Municipal Council on 30.12.2013 and soon after its approval, required action will be taken on his representation.

16. The Tamil Nadu Town and Country Planning Act under Section 49 provides for application for permission by any authority to carry out any development on any land or building and the petitioner's need for getting necessary permission for sewerage connection to the Underground Drainage system has already been pursued by the authorities concerned and necessary Resolution has also been passed. Upon considering every factor involved in this case and the claim of the petitioner for a direction to the respondent to connect the sewerage water drain from the petitioner Hospital, Nilagiri Village to the Underground Drainage system of Thanjavur Municipality on the basis of his representation dated 22.06.2013, I am of the considered opinion that the respondents are bound to consider the petitioner's requirement, as he has come out with an undertaking to abide by the conditions of the respondents in giving sewerage water drain connection of the petitioner Hospital to the Underground Drainage system of the Thanjavur Corporation, based on the Report of the Executive Engineer. In the light of the above stated position, the respondents herein are directed to consider the claim of the petitioner positively, in the light of the public need and connect the sewerage water drain of the Hospital to the Underground Drainage system of Thanjavur Corporation on condition that the petitioner gives an undertaking to the respondents to bear the costs with an indemnity bond and furnish security. The entire exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

Writ Petition is allowed accordingly. No costs.