



W.P.No.14211 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 27.09.2023

Order delivered on 06.11.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.14211 of 2020
and
W.M.P.No.17684 of 2020

Grama Kudiyrupor Podhu Nala Sangam
Chettiar Agaram (Regd.Society)
(Regn.No.231/2004)
Rep. by its President C.Prakash,
S/o Chandrasekaran,
No.1/34, First Street,Chettiar Agaram,
Chennai-7.

.... Petitioner

vs

1. The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chindatripet, Chennai - 2.
2. The Chairman,
Tamil Nadu Pollution Control board,
No.76, Mount Road, Guindy,
Chennai - 600 032.
3. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai - 600 003.



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4. The District Collector,
Collector Office, Chennai.

5. The Tasildhar,
Maduravoyal Taluk,
Maduravoyal Taluk Office,
Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from setting up of sewerage treatment in the land situated at Survey No.7/2, Chettiar Agaram Vllage, Chennai - 77.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.J.Ravindaran,
Additional Advocate General
assisted by Mrs.S.Deepika for R1
Mrs.Shanmugavallisekar for R2
Mr.G.T.Subramanian for R3
Mr.E.Vijayanand,
Additional Government Pleader for R4 & R5

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

The writ petition has been filed to forbear the respondents from setting up of sewerage treatment in the land situated at Survey No.7/2 Chettiar Agaram Village, Chennai - 77.



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2. The case of the petitioner Society in brief is that the Society has been formed for the welfare of the residents and farmers of Chettiar Agaram village. The respondents are trying to set up a sewerage treatment plant in Survey No.7/2 Chettiar Agaram Village, which is classified as thrashing floor and it is situated near the temple pond. Recently, the said Village has been brought under the administrative control of the Corporation of Chennai. The setting up of sewerage treatment plant is in the vicinity of agricultural lands, village pond, school, temple and residential lands, which is against the guidelines set up for sewerage treatment plant. Hence, the present writ petition.

3.(i) Learned counsel for the petitioner would state that the petitioner Society has been constituted to protect the residents and to facilitate them to live peacefully in a safe environment. Originally, Chettiar Agaram village was an agricultural land and the principal avocation of residents in that village was only agriculture. For the purpose of agriculture, the property admeasuring 44 cents comprised in survey No.7/2 Chettiar Agaram village was set apart as a thrashing floor.

(ii) Learned counsel would further submit that recently, the agriculture



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lands have been converted into house sites and there are only few agricultural lands still left. The said village has also been brought under the control of Corporation of Chennai recently. The 1st respondent is about to set up a sewerage treatment plant comprised in property in S.No.7/2 Chettiar Agaram village which was classified as thrashing floor.

iii) Learned counsel would further submit that apart from schools, pond, agricultural lands and residents, there are six temples surrounding the subject land. Within 100 meter radius from the proposed site of sewerage treatment plant, a big pond with circumference of 4 acres belonging to the temple is situated at Survey No.30/1. As per the sewerage treatment plant guidelines, the Sewerage Treatment Plant should be atleast 250 meters away from any lake or pond. It should be located atleast 500 meters away from the notified habituated area and a zone of 100 meters around the sewerage treatment plant site boundary should be declared as no development zone so that green belt can be developed in that area. Further, the Sewerage Treatment Plant site should be atleast 500 meters away from public utility areas such as parks, temples and educational institutions. Further, appropriate land use certificate from DTCP for the said site should be obtained. But none of the criteria mandated under the guidelines was followed by the respondents



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before selecting the site for setting up of sewerage treatment plant. The respondents did not obtain any environmental clearance which is mandatory for setting up of sewerage treatment plant.

(iv) Learned counsel would further submit that under Rule 6 of the Tamil Nadu Combined Building Rules, 2019, the respondents, being a local body are bound to obtain planning permission and building permit before establishing any sewerage treatment plant. The land is admittedly not reclassified and the land use certificate was also not obtained. By setting up the sewerage treatment plant in violation of the guidelines, the rules and laws, it would seriously endanger the safety environment and lives of the residents and students of the Chettiar Agaram Village. Therefore, the petitioner has given a detailed representation on behalf of the residents, farmers, students, devotees and other persons of the Chettiar Agaram Village on 17.02.2020 to the respondents 1 to 5. However, the respondents failed to take any action on the petitioner's representation. Therefore, he would pray to forbear the respondents from setting up of sewerage treatment in the said land.

4. (i) Per contra, the learned Additional Advocate General appearing for the 1st respondent would submit that the Government vide G.O.(Ms)



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No.43 dated 28.02.2019 had given administrative sanction for various Urban Infrastructure Development Projects with the objective of improving the quality of life in urban areas at a project cost of Rs.2780.53 Crores. Providing Comprehensive Under Ground Sewerage System to Karambakkam Area is one among the projects to be covered under the said G.O. The District Collector, Thiruvallur, vide proceedings dated 03.10.2017 had granted approval for the extent of 30m x 30m to CMWSS Board for construction of Sewage Pumping Station in S.No.7/2 Chettiyar Agaram Village and also permitted to enter upon the land. Several representations were made by the Residents Welfare Association living nearby stating that the construction of Sewage Pumping Station would pollute the ground water due to release of effluents. However, he would submit that the structures in the Sewage Pumping Station will be of leak proof RCC structures and that there will be no let out of effluents. Two numbers of water proof RCC wells have been constructed at the said site. The suction well has been designed for pumping of sewage round the clock to the Sewage Treatment Plant for treatment and there will be no storage of sewage. Hence, there will not be any issues relating to Environment or Ecology. The site in S.No.7/2 is located in a vacant area, away from the thickly populated residential zone and found to be most



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technically feasible for construction of Sewage Pumping Station. Only after promptly replying to all the representations, the work was commenced in the site in S.No.7/2. The above works are being executed as per Government Order and after obtaining permission from the Collector of Thiruvallur District.

(ii) The 1st respondent has also filed a status report of Chettiyar Agaram Main Pumping Station, Karambakkam, as on 01.06.2023 which reads as follows:

Suction well 2 nos. - completed
Screen well 1 no. - completed
Pump room 1 no. - completed
Compound wall - completed
80% of Main Pumping Station work is completed.
80% of laying of sewer main work are also completed.
Pump erection and interconnection works are only pending.

Therefore, the learned Additional Advocate General would submit that most of the work has been completed and the respondents may be allowed to proceed with the work of construction of Sewage Pumping Station.

5. (i) The learned Additional Government Pleader appearing for the respondents would submit that 50% of the agricultural lands had already been converted into house sites and the Chettiar Agaram Village has been brought



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under the administrative control of Greater Chennai Corporation. During January, 2020, construction activities of a sewerage plant had been commenced by the first respondent. The petitioner Sangam objected for the construction of Sewerage Plant stating that the said land is surrounded by thrashing floor, School, temples etc. and the said Plant would be in violation of the guidelines issued in this regard. He would further submit that S.No.7/2 of Chettiyar Agaram Village stands registered in the Land Records of the office as detailed below:

<i>Village</i>	: <i>Chittiyar Agaram</i>
<i>Survey number</i>	: <i>7/2</i>
<i>Classification</i>	: <i>Kalam Poromboke</i>
<i>Extent</i>	: <i>Hec.Ares.Sq.metres</i> <i>00 13 50.0</i>
<i>Adangal</i>	: <i>....</i>
<i>Remarks</i>	: <i>Kalamedu</i>

It is further stated that the said land is a Government land and that based on the requisition received from the Chennai Metropolitan Water Supply and Sewerage Board authorities, necessary proposals were submitted to the District Collector, Thiruvallur District through the Revenue Divisional officer, Ambattur for alienating an extent of 13.05 Acres comprised in Survey number 7/2 of Chettiyar Agaram village by the 5th respondent addressed to the 4th respondent dated 13.11.2017. The 4th respondent also issued



proceedings to enter upon permission to the CMWSSB authorities.

(ii) Learned Additional Government Pleader would further submit that in 2011, the Chennai City has been expanded to 426 square kilometres from 176 square kilometers. The Chennai Metropolitan Water Supply and Sewerage Board has proposed to provide water supply and sewerage facilities in all the 42 added areas of Chennai City on par with erstwhile Chennai City. The underground sewerage scheme has already been implemented in 4 areas and in another 15 areas, it is under implementation. Under the Tamil Nadu Urban Flagship Investment Program, it is proposed to provide sewerage schemes in another 4 areas namely Manali, Chinnasekkadu, Karambakkam and Manapakkam covering an extent of 27 kms having road infrastructure for a length of about 118 km. The present proposal includes (i) laying of sewerage collection system for a length of 113 km. (ii) construction of 1 sewage pumping stations (iii) 7 lift stations (iv) house service connection -25974 nos. After considering all these aspects, the CMWSSB has proposed to locate a sewerage Pumping Station in S.No.7/2 of Chittiyar Agaram village after having discussed all pros and cons in locating the said Sewerage Pumping Station in this area. It has already been clarified that the



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Underground Sewerage Scheme for Karambakkam has been designed as 5 zones due to restriction of depth of manhole. The aforesaid site involved in this writ petition has been identified for Sewerage Pumping Station. It has already been clarified by CMWSSB that the wells are constructed with RCC and hence, there is no seepage and water pollution. Moreover, mitigation measures like green plantation with regard to odour control will be undertaken. An environmental management plan (EMP) has been developed to provide mitigation measures to reduce all negative impacts to acceptable levels. Hence, all steps have been taken and the construction work is in progress according to the norms and conditions for constructing a sewerage pumping Station. Moreover, the Underground Sewerage System is necessary to the people in and around these areas. Hence, he would state that the writ petition deserves no consideration and the same is devoid of merits.

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

7. Admittedly, a proposal was laid by the Chennai Metro Water Supply and Sewerage Board for the purpose of locating a Sewerage Pumping Station



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in Survey No.7/2 of Chettiyar Agaram Village, to an extent of 13.5 Ares (equivalent to 14531 Sq.feet), which was classified as Kalam Poromboke. During January, 2020, and the construction activities of a sewerage plant had been commenced by the 1st respondent. The petitioner Sangam objected the construction of sewerage plant on the ground that there is a pond nearby and the said land is a thrashing floor and it is surrounded by agricultural lands, School, temples etc. and hundreds of residents are also there.

8. It is the contention of the petitioner that 50% of the agricultural lands have been converted into housing sites in Chettiar Agaram Village and there are only few agricultural lands still left and used for cultivation in the area. Recently, the said village has been brought under the administrative control of the Corporation of Chennai. Within 100 meter radius from the site of sewerage treatment plant, a big pond with circumference of 4 acres belonging to the temple is situated at Survey No.30/1. The Government School is also situated within 100 meters radius from the proposed site where more than 500 students are studying. The setting up of sewerage treatment plant close to the water body viz., the pond, close to temple, school and residential area would jeopardise the entire environment and imbalance the ecology of the Chettiar



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Agaram Village. Regular planned preventative maintenance is the key to reliable pump station operation. However, it is to be noted that maintaining Sewerage Pumping Station(SPS) at an appropriate level is crucial.

9. Further, in the status report of the Superintendent Engineer (P)-III dated 05.11.2020, at paragraph Nos.4 and 5, it has been stated as follows:

4. I submit that in the SPS at Brodies Castle Road, the sewage pumped from Raja Annamalaipuram SPS & Fore Shore Estate SPS is received in a collection well of 3.6m diameter and 4.0m deep. The incoming sewage was freely falling from the inlet pipe for a depth of 3.0m causing turbulent mixing of sewage in the confined space of the collection well. The turbulent splashing of sewage resulted in enormous gas emanation and consequently bad odour was experienced in the areas around this SPS. Further since the same was not covered as can be seen from the photos annexed to the status report, the bad smell had emanated in the said area.

5. I state that pursuant to this court's order steps were taken by the board in order to avoid the bad odour emanation, as a first step the free fall of sewage was eliminated by extending the pipe further inside the well for a depth of 3.0m thus avoiding the turbulence. Secondly, to



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avoid spreading of bad odour, the open well was covered with anti corrosive stainless steel sheet with a chimney like vent provided for a height of 20 feet and bad odour emanation has been controlled at this Sewage Pumping Station.

10. It is pertinent to point out that this Court has observed in the order dated 05.01.2021 that only after pointing out as to the inconvenience caused on account of the emission of foul smell, some steps appeared to have been taken. Further, when the matter came before this Court on 16.11.2022, this Court recorded as follows:

The learned Additional Government Pleader is required to produce the Adangal extracts for the lands in Survey Nos.1 to 50, including the sub-divisions of Chettiyar Agaram village for the fasli years 1431 and 142 apart from clarifying as to whether the land in Survey No.7/2 which is classified as a threshen floor (kalam) has been re-classified as before being assigned to the Chennai Metropolitan water Supply and sewerage Board for construction of pumping stations.

11. When the matter came before this Court on 26.06.2023, a report was filed by the Chennai Metropolitan Water Supply and Sewerage Board stating that 80% of main pumping station work was completed, 80% of laying



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of sewer main work are also completed, pump erection and interconnection works are only pending. Even at the time of admission of the writ petition, this Court considering the submission of the learned counsel for the petitioner that in the event of the said Plant being coming up, it would definitely emanate foul smell which would cause inconvenience, hardship and health hazard to the nearby residents of the locality, ordered notice to the respondent on 9.10.2020. Therefore, when this Court has observed that the erection of pumping station would cause inconvenience to residents living in the surrounding area on account of the emission of foul smell, the respondents ought not to have proceeded with the construction work and now contend that 80% of the construction work had been completed.

12. Further, the Revenue Department has neither produced the village records before this Court nor clarified as to whether reclassification was made before assigning the land to Chennai Metropolitan Water Supply and Sewerage Board as per the order of this Court dated 16.11.2022. Though crores of rupees have been spent by the State, it cannot be the reason to continue or to permit the State to act in violation of the mandatory provisions or in breach of a duty cast upon the State under the Constitution.



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13. Subsequently, status report was also filed by the Superintending Engineer (P)-III of CMWSSB stating that bad smell had emanated in the said area and to avoid bad odour emanation, the free fall of sewage was eliminated by extending the pipe further inside the well and the open well was covered with anti corrosive stainless steel sheet with a chimney and bad odour emanation has been controlled. Though several measures have been taken, it is to be noted that it is a common and known fact that the sewerage treatment plants are not maintained properly in many places. On several occasions untreated effluents were let out in the surrounding areas and thereby causing environmental hazards to the residents living in that area. In the present case, the danger projected by setting up of sewerage treatment plant is aggravated in view of the fact that it is proposed to be set up in the vicinity of agricultural lands, village pond, school, temple and residential lands. The STP should be atleast 250 meters away from the lake or pond. However, in the present case, the distance is within 100 meters. Therefore, the life and livelihood of thousands of persons in the area would be endangered by the environmental wastes.



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14. In view of the above discussions, we are of the view that the construction of sewerage treatment plant will cause serious health hazard to the people of the Chettiar Agaram Village area and would cause environmental degradation. Therefore, the respondents/State are directed not to proceed further with the construction process of Sewerage Treatment Plant at Chettiar Agaram Village and to find out an alternate site for shifting the Sewerage Treatment Plant from Chettiar Agaram Village. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
06.11.2023

vsi

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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