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W.P. No.16413 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.07.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16413 of 2024

and WMP. No.17973 of 2024

A.G's Colony (Phase III),
Residents Welfare Association
(Registered No.51/1997)
Rep. by its President, Plot No.12, 1st Avenue,
A.G's Colony, Phase III,
Mugalivakkam, Chennai-600125

...Petitioner

..Vs..

1. The Chief Engineer (P) -1,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600002.

2. The Executive Engineer,
Chennai Metropolitan Water Supply
and Sewerage Board,
Alandur, Chennai - 600016.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
seeking to issue a Writ of Mandamus to forbear the respondents herein from



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constructing sewage pumping station in A.G's Phase III Colony Park front side on the main road, Mugalivakkam, Chennai - 600 125 when alternate site is very well available and pass orders accordingly.

For petitioner : Mr. G.Purushothaman
For Respondents : Mrs.K. Vasanthamala
(Standing Counsel)

ORDER

This Writ petition has been filed seeking for a Writ of Mandamus to forbear the respondents herein from constructing sewage pumping station in A.G's Phase III Colony Park front side on the main road, Mugalivakkam, Chennai - 600 125 when alternate site is very well available and pass orders accordingly.

2. The learned counsel for the petitioner has submitted that in the year 1991 the A.G's Colony (Phase III), layout was formed by A.G's Office Employees Housing Co-Operative Society and plots were allotted to its members for the construction of individual houses based on the amount fixed by the society. Subsequently, many of the members of the society sold the property to third parties and now equally retired A.Gs Office Employees



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and outsiders are the owners of the houses constructed in the A.G's Office (Phase III) Project. At the time of layout approval itself areas comprising common space and common roads were gifted to the Local Authorities concerned.

3. It has been further submitted by the learned counsel for the petitioner that in the year 1997, the Petitioner Association was formed and registered under Tamil Nadu Societies Act, 1975 having Registration No.51/1997 and the same is periodically renewed. The Petitioner Association comprising of the residents of AGs Colony (Phase III) and residents Annai Velanganni (Phase II) totaling about 120 members and the Petitioner Association is taking care of area development activities including planting of trees and maintaining roads and park etc.

4. The learned counsel for the petitioner has further submitted that the water lines are laid down on the road side of the colony and the respondents had taken plan to put up sewer line throughout the local area after including the petitioner's colony in Chennai Corporation. When the respondents had proposed to put up the sewage pumping station on the



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middle of the road in front of the petitioner's Colony Park, the petitioner Association had made representation dated 09.08.2023 seeking change of location of sewage pumping station to Selva Lakshmi Garden, a small park which is in all respect will not hinder the traffic of the area, just 300 meters away from the A.G's Phase 3 Colony Park. Constructing sewage pumping station in front of the park may cause disturbance to the people and may create health related problems during sewage clearance and maintenance activities.

5. The learned counsel for the petitioner has further submitted that as the petitioner has not received any positive reply on the part of the 2nd respondent, they have made the representation dated 11.09.2023 to the 1st respondent herein on the same line. In their reply, it is stated that the alternate location identified by them is around 450 meters away from the proposed location and stated that the alternate site has high water table and sand blow at 2.5 meter depth and rejected the petitioner's proposal.

6.It has been further submitted by the learned counsel for the petitioner that the Petitioner Association by representation dated 25.02.2024



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proposed an alternate site which is an unused small open space (park) at the junction of Kaveri Street and Viswanathan Streets of Mugalivakkam for the construction of the sewage lifting pumping station. However, without replying to the petitioner's representation and without the consent of the Association, recently all construction activities are hurriedly taken up by the respondents by putting sewerage pit in the middle of the road adjacent to colony park and trying to put up motor operation area near the park which not only create inundation of sewer in the middle of the road, but also affect the traffic, healthy and purity of the park situated just nearby.

7. The learned counsel for the petitioner has further submitted that as all efforts of the petitioner Association is to stop the construction of sewage lifting station just in the middle of the road near the AGs Colony Phase III Park, our Association has passed a Resolution dated 07.06.2024 to challenge the same under due process of law by initiating appropriate legal remedy. Hence, the Petitioner Association with no other effective, efficacious alternate remedy, has filed the present Writ petition seeking for the relief as prayed therein.



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8. The learned standing Counsel appearing for the respondent

submitted that Mugalivakkam is a newly added area among the 42 local bodies added in the expanded area of Chennai city which falls in Greater Chennai Corporation Division 156 in Area XII (Alandur) to an extent of 1.87 Sq.Km for a total length of about 60 Km. The Government have accorded administrative approval vide G.O.(Ms) No. 105, MA&WS (MC.I) Dept., dated 11.07.2013 for the work of Providing UGSS to Mugalivakkam. The scheme cost for "Providing comprehensive underground sewerage scheme works to Mugalivakkam" is Rs. 77.41 crores and revised cost is Rs 99.71 Crores.

9.It has been further submitted by the learned standing Counsel appearing for the respondent that under the scheme Gravity sewer mains are to be laid for a length of 54.54 Km and Pumping mains for a Length of 9.82 Km with House service connections of 6700 Nos. It was proposed to construct 2 nos. of Main Sewage Pumping stations originally under the scheme and pump the collected sewer to Sewage Treatment Plant at Nesapakkam.



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10. The learned standing Counsel appearing for the respondent

submitted that the project was initiated in 2016 but was delayed due to some tendering issues and commenced only in 2019. The project was delayed due to public opposition to the location of the Pumping stations at Rajeswari Avenue. After redesign of the entire system the work was re-commenced in the year 2021. Moreover the other pumping stations location was delayed due to public opposition and finally in view of completion of the project, the Board office building of Division 156 was partially demolished to accommodate the Pumping station in the year 2023. In the meantime PWD (WRD) had constructed Mega drain at Madhanadhapuram main road where it had been proposed to carry deep sewer mains of 6.5m depth i.e., 20 ft deep. Since it would be very difficult to construct such deep machine holes in limited space and due to unfavorable soil conditions with water table at 1.5 m depth and also the current norms, it was proposed to redesign the system with introduction of Lift stations at four locations namely LS(Lift Station) 1 at Defunct OHT site at Madhanadhapuram Main road, LS2 at Subbiah Nagar Main Road, LS3 at Selvalakshmi Garden GCC community center and LS4 at L&T park at Manapakkam -Mugalivakkam main road. It is pertinent to note that the proposal was redesigned to accommodate the



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already constructed Machine holes depths. Locations were selected to reduce the cost of demolition and reconstruction or Corrections to the already constructed systems.

11.It has been further submitted by the learned standing Counsel appearing for the respondent that at LS3 Selvalakshmi Garden GCC community center, the land requested from GCC was found to be Patta land endowed to temple and administrative procedures to obtain clearances would be cumbersome and long drawn. In the interest of project completion alternate location in the available space in the AGS colony Phase III on main road near Park was selected for LS3 which is only 50m from the proposed location with no major alterations to the design.

12. The learned standing Counsel appearing for the respondent submitted that the original proposal was for open well as in the other three locations and the available space width of 4.5m along the road for a length of 400m could be used for the respondents purposes since this road does not carry heavy traffic load and road widening would not be necessary in the foreseeable future.



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13. It has been further submitted by the learned standing Counsel appearing for the respondent that the AGS colony park location was selected for the lift station so that the well may not be located in front of any residential premises which may cause disturbances to the household and the nearest residence to the proposed location was more than 15m away. The work was commenced at all four Lift station locations by August 2023 and proceeded as per plan except for AGS colony park site. The AGS colony welfare Association office bearers have objected to the location of the LS3 and insisted to relocate the Lift station 3 to another location stating that many children are using the park along with Senior citizens and this well would be a safety issue.

14. The learned standing Counsel appearing for the respondent further submitted that this Project was initiated during the year 2019 and due to various hurdles as stated above, it comes to finalization and it is proposed to be commissioned by September 2024. But the Petitioners have insisted to relocate and requested to investigate locations of their choice. A location diagonally opposite to the park was shown by the petitioners and since the location was technically feasible, the Engineers have designed



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after having inspected the various places, and the contractor was instructed to commence work at that location.

15. It has been further submitted by the learned standing Counsel appearing for the respondent that the Contractor for the project has arranged for machinery and labour and commenced the work at the location shown by the petitioner, with additional cost, but the owner of the abutting property objected in person the next day stating that the land where the LS3 as proposed was actually his land and hence the work was abandoned.

16. The learned standing Counsel appearing for the respondent further submitted that later, the petitioners have recommended another location in Selva lakshmi garden near another GCC park. The proposed site was inspected jointly by the technical team of CMWSSB and the petitioners. It was explained that this site was 400m from the original site and Machine holes were already constructed in that stretch and to redesign the entire work will be very costly and wasteful expenditure. Moreover the available space in the road is very limited and the Lift well would have to be located inside the park itself which would require land alienation from



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GCC and would also cause inconvenience to the users of the park. The same apprehensions raised by the petitioners for the AGS colony park would also be applicable for this park, but the petitioners have insisted to relocate to this park stating that usage is very limited. The proposal of the petitioners was rejected for Technical reasons and Financial reasons.

17. It has been further submitted by the learned standing Counsel appearing for the respondent that once again CMWSSB tried to commence the work at the AGS colony park and once again the petitioner objected to the work and stopped the work and this time proposed a location in the junction of Madhanadhapuram main road on AGS colony Phase III main road. The contractor once again engaged labour and machinery to commence work, but the nearby property owners of AGS colony objected to the work and verbal spat between the residents of AGS colony Phase III main road and petitioner ensued. The residents objected to the proposal of locating the sewage lift well in the access path of vacant plot and nuisance to nearby residences, resulting in abandoning the commenced work and restoring the site to original status by refilling the excavated earth.



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18. It has been further submitted by the learned standing Counsel appearing for the respondent that it is to be noted that the contractor has incurred additional and wasteful expenditure for mobilizing the machinery and labour on four occasions and work had to be abandoned due to the opposition of the petitioners and others after commencing the work and this Board has to incur the additional cost apart from the contract value. All works were halted from October 2023 to April 2024 due to monsoon period and Parliamentary Elections. During this period, a fence was erected by the petitioner in the open area between the park and road edge where the Lift station was proposed.

19. The learned standing Counsel appearing for the respondent further submitted that the proposal for lift station was redesigned to be in below ground level which is costlier than the original proposal of open well and also future maintenance issues. But once again the petitioner has objected but due to the consideration of the larger public interest of providing Sewer facilities to the Mugalivakkam Area, the work was continued and presently 45% of the work is completed at LS3 AGS colony park.



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20. It has been further submitted by the learned standing Counsel appearing for the respondent that the petitioner has filed the above writ petition without justification and without having public interest at large and only prayed for Stay of the work proceeding further without any alternate remedy to provide UGSS facility to this area. In the present case, the original proposal was drawn in 2013 for machine holes depths exceeding 6.5m are now restricted to 4.5m with introduction of Lift station in this project to provide Under Ground Sewerage Scheme to Mugalivakkam.

21. The learned standing Counsel appearing for the respondent further submitted that the petitioner has argued that locating the lift station in the middle of the road would cause traffic obstruction and that during rains there is chances of sewer overflows. However, the Lift well would be below the ground level and vehicles can travel over the roof slab with a thickness of 300 mm. The well is designed to carry heavy vehicle load and there would be no traffic obstruction as alleged by the petitioner.



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22. It has been further submitted by the learned standing Counsel appearing for the respondent that the well openings would be sufficiently covered to avoid ingress of rain water and only in case of exceptional Floods would the operations of the Lift station be affected in any manner. The project of LS3 is a lifting station and not the pumping station as alleged by the petitioner. Further the said project was taken up by considering all technical feasibility, the allegations raised by the petitioner is to stall the ongoing project of Underground sewerage Scheme in the interest of public at large taking into consideration of all health and environmental issues and also taking into account of various directions issued by the National Green Tribunal, the above said project is implemented with a total cost of Rs.99.71 Lakhs and almost 87.27% of works were completed and proposed to inaugurated by September 2024. Moreover, the Concrete cover slab over the LS well is having 300 mm thickness and it can bear the load of Highway class-A loading capacity and will not cause any damage even to the heavy vehicles ply on the road.

23. The learned standing Counsel appearing for the respondent further submitted that the residents in that locality is being used the sewage



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outfalls into the Adyar River. This has also caused environmental pollution and health hazards, apart from drawing litigation in the NGT. The proposed scheme aims to provide sewage facilities to 6700 residences (39,000 population) in Division 156, addressing environmental concerns and preventing groundwater pollution by collecting sewage from all residences in the location. Despite being delayed due to various reasons, the project has achieved 87.27% completion with a financial expenditure of Rs.7255 Lakhs. However re-routing and redesigning the pipelines are not feasible at this juncture. Additionally, there is a pressing need to stop sewage outfalls into the Adyar river and resolve pending NGT cases. To achieve this, the project must be completed by September 2024. Moreover, if the transfer of LS3 may involves sufficient place, which can't be identified immediately and further additional expenditure may also involve loss to the Board. The petition is filed in order to stall the public project which is beneficial to the public at large. One Association can't stall the project for the benefit of public at large. Further, she has produced Status report along with photos stating that the work is under progress now, but it was initially delayed in mobilizing the labour force for a few days due to stoppage of work and migration of work force. Gravity sewer mains work is also under progress



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simultaneously. The terminal machine holes need to be completed with sewer mains and the terminal machine hole interconnected with the Lift well through a Penstock Valve. A separate chamber has to be constructed for the penstock valve for operation before the road can be restored. The lift well is being constructed by sinking method and the total depth to be achieved is 6.09 m. Presently the well is sunk to a depth of 4.2m and Balance 1.9 m depth sinking needs to be carried out. The present surface photos of the project is attached herewith, which will shows the progress of work. The work will require another 30 days to be completed due to challenging soil conditions and intermittent rains which have hampered the work progress. Hence, she seeks this Court to grant an extension of time for 30 days to file the completion report with photos. As the action of the respondents are valid under law and fully sustainable in light of public interest, the petition is liable to be dismissed with exemplary cost.

24. Heard both sides and perused the materials available on record.



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25. Having considered the facts and circumstances of the case

and submissions made by both side counsel, it seems that the project has been implemented for the benefit of the public in general living at the locality which is under progress. It is the scheme of Public oriented and not a Departmental oriented. It has been started for providing Sewer facilities to the Mugalivakkam residence on a larger public interest. Further, the petitioner had no justification for causing pollution or disturbance in the contested area. However, the respondents must ensure that there should not be any disaster or pollution during the work process and they must conduct regular site inspections to guarantee public safety and prevent any damages and disturbance to the Public in that locality.

26. Further, if any disaster and damages occurs during the process of work, it should be reported before this Court by having Photographs to that effect. The respondents are directed to file a Status report after the completion of Work along with Photographs before this Court in the first week of October.



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27. In view of the above direction, the Writ petition is disposed

of. No costs.

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Index : Yes/No

Internet: Yes/No

Lbm

To

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and Sewerage Board,
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V.BHAVANI SUBBAROYAN, J.,

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