

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

CORAM

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.Nos. 35193 & 35194 of 2015
and M.P.Nos.1 & 1 of 2015

Chinnasaamy

.. Petitioner in both WPs

Vs

1.The Zonal Officer,
Zone XI,
Chennai Corporation,
Chennai - 600 087.

2.The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

3.The Superintending Engineer,
Chennai Corporation,
Chennai - 600 003.

.. Respondents 1 to 3 in both
WPs

4.S.Andal

.. 4th Respondent in WP.35193/2015

5.P.Chinnappa

.. 4th Respondent in WP.35194/2015

6.P.Yasodha

.. 5th Respondent in WP.35194/2015

COMMON PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent herein dated 13.10.2015 in Na.Ka.No.H1/6505/2015 and Na.Ka.No.H1/6506/2015 respectively, and to quash the same.

For Petitioner :Mr.A.R.L.Sundaresan,

Senior Counsel for
M/s.AL.Ganthimathi

For Respondents 1 & R3: Mr.P.V.Selvakumar

For Respondent -2 : Mr.R.Lakshminarayanan
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.A.R.L.Sundaresan, the learned Senior Counsel appearing for the petitioner, Mr.P.V.Selvakumar, the learned counsel, who accepts notice for the respondent-Chennai Corporation, and Mr.R.Lakshminarayanan, learned Additional Government Pleader, who takes notice for the second respondent.

2. With the consent of either side, both Writ Petitions are taken up together for final disposal.

3. The petitioner is the owner of the property, bearing Door No.102, situate at Maha Kavi Bharathiyar Street, Rajiv Gandhi Nargar, Nerundram, Chennai-600 107. It appears that there was a drainage block, and according to the petitioner, he has never employed any persons to manually clean the drainage, but, certain equipments were hired for such purpose. However, two persons, by name C.Shanmugam and C.Babu died while carrying out the cleaning process. According to the petitioner, he is no way responsible for the death of said two persons, as he has not engaged any person to do any manual scavenging, and he has engaged the services of a Private Lorry driver along with machinery and equipments to clean the septic tank. Now, by the impugned proceedings, the petitioner has been called upon to pay a sum of Rs.10,00,000/- as compensation for the death of aforesaid two persons.

4. The case of the petitioner is that, before passing the impugned order, no notice was issued to the petitioner, and solely relying upon the decision of the Hon'ble Supreme Court rendered in Contempt Petition (C) No.132 of 2012 in Writ Petition (Civil) No.583 of 2003, dated 27.03.2014, compensation has been directed to be paid.

5. The learned Senior Counsel for the petitioner would submit that, unless and until, the responsibility is fixed, the question of payment of compensation from the petitioner does not arise.

6. On perusal of the impugned proceedings, it is seen that, there is no earlier notice or any enquiry conducted, before the petitioner has been called upon to pay the compensation to the legal heirs of the deceased. Therefore, to that extent, the petitioner is justified in stating that his rights have been affected. However, on that ground, this Court is not inclined to quash the impugned proceedings in the light of the fact that the compensation of Rs.10,00,000/- has been directed to be paid in all such cases, pursuant to the judgment rendered by the Hon'ble Supreme Court in the Contempt Petition (referred supra). However, the question would be, who has to pay the compensation amount. For considering this issue, the Authority should conduct an enquiry into the matter and

hear the parties and thereafter, fix the liability. This appears to have not been done, and straightaway the petitioner has been slapped with the impugned order, demanding him to pay the compensation.

7. In the light of the facts narrated above, the petitioner is directed to treat this impugned order as a show cause notice, and he is directed to submit his explanation along with supportive documents to the first respondent within a period of three weeks from the date of receipt of a copy of this order. On receipt of such explanation and documents, the first respondent shall conduct an enquiry into the matter by affording an opportunity of personal hearing to the petitioner and pass a speaking order within a period of three weeks thereafter. In the course of enquiry, it is open to the first respondent to hear the legal heirs of the deceased also in both cases.

8. With the above directions and observations, the Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Zonal Officer,
Zone XI,
Chennai Corporation,
Chennai - 600 087.
- 2.The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

- 3.The Superintending Engineer,
Chennai Corporation,
Chennai - 600 003.

+2 ccs to M/S.AL.Gandhimathi Advocate sr.60006&60020
+1 cc to Mr.P.V.Selvakumar Advocate sr.59588
+1 cc to Government Pleader High Court Madras
sr60101

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aa06/11/2015