

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.5551 of 2015

Subhashini

.. Petitioner

Vs.

1.The Area Engineer, Area-1,
Chennai Metro Water Supplies
and Sewage Board,
Thiruvotriyur,
T.H.Road,
Chennai-600 019.

2.Ganesan

3.The Managing Director,
Chennai Metro Water Supplies
and Sewage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai-600 002.

.. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the respondents to grant compensation for the death of the petitioner's brother Mahesh alias Kannan, who succumbed to head injury on 16.02.2014 caused during the course of employment on 10.2.2014 as Manual Scavenger with the respondent.

For Petitioner : Mr.S.Deepika

For Respondents: Mr.N.Ramesh for RR1 and 3

Mr.S.Subramaniam Balaji for R-2

ORDER

Heard the learned counsel appearing on behalf of the petitioner, as well as the learned counsels appearing on behalf of the respondents.

2 This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus to direct the respondents to grant compensation for the death of the brother of the petitioner, namely Mahesh @ Kannan, who had died, on 16.02.2014.

3 The petitioner has stated that her brother, namely Mahesh @ Kannan, succumbed to the head injuries sustained by him, on 16.02.2014, during the course of his employment with the respondents, as a Manual Scavenger. It has been further stated that it is the responsibility of the Chennai Corporation and the Chennai Metro Water Supplies and Sewage Board (for short "CMWSSB"), to supply water to the residents of the city of Chennai and to maintain the drainages and to clear the sewage. The Chennai Corporation, as well as the CMWSSB are engaging contractors to do the same. The contractors, in turn, engage manual scavengers to do the said job. The deceased was engaged by the second respondent Contractor to do the drainage cleaning work, near MSM Theatre, in Tiruvotriyur. The second respondent had promised to pay a sum of Rs.600/-, to the brother of the petitioner, for the said job. While cleaning and removing the sewage, the deceased had sustained head injuries and died, subsequently. No proper medical care had been provided to him by the second respondent. The brother of the petitioner had died due to the delayed medical attention given to him. In such circumstances, it is clear that the respondents are liable to pay compensation to the family of the deceased. As per the dictum laid down by the decisions of the Supreme Court, the petitioner has claimed a sum of Rs.18,53,550/-, as the amount due to be paid, by the respondents, to the family of the deceased.

4 The first respondent had denied the claims made by the petitioner, in his counter affidavit filed on 13.03.2015. It has been stated that the deceased was not employed by the respondent Board, either directly or through the second respondent. It has been further stated that there is no necessity to engage human beings, as manual scavengers. The respondent Board had procured all the necessary machineries for cleaning the sewage lines, tanks and wells.

5 The learned counsel, appearing on behalf of the second respondent, had submitted that the second respondent was not a Contractor and that the deceased was not engaged by him to clean the drainage, near MSM Theatre, in Tiruvotriyur, as alleged by the petitioner. He had further stated that the claim of the petitioner that the deceased was engaged as a manual scavenger, by the second respondent, is totally false.

6 In view of the submissions made by the learned counsels, appearing on behalf of the parties concerned, and on perusal of the records available, it is noted that the claim of the petitioner that the deceased had died due to the head injuries suffered by him, while cleaning the drainage system, near MSM Theatre, in Tiruvotriyur, as a manual scavenger, engaged by the second respondent, has not been substantiated with sufficient proof. No documents have been filed to show that

the deceased had been engaged by the second respondent, who is said to be a Contractor. The petitioner has not produced any records to show that the deceased had been employed with the respondent Corporation. It is also noted that there is no contract or agreement between the respondent Board and the second respondent to engage manual scavengers to clean the drainage systems. As such, this Court is of the considered view that the petitioner has failed to substantiate her claim that the respondents are responsible for the death of her brother, namely Mahesh @ Kannan.

7 In such circumstances, this Court is of the considered view that the present writ petition deserves to be dismissed, as it is devoid of merits. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Area Engineer, Area-1,
Chennai Metro Water Supplies and Sewage Board,
Thiruvotriyur,
T.H.Road, Chennai-600 019.
- 2.The Managing Director,
Chennai Metro Water Supplies and Sewage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai-600 002.

+1cc to Mr.N. Ramesh, Advocate, S.R.No.35974

+1cc to M/s. S. Deepika, Advocate, S.R.No.35965

RSY(CO)
EU(21/07/2016)

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