

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE HON'BLE Mrs.JUSTICE HULUVADI G.RAMESH

And

THE HON'BLE MR JUSTICE V.PARTHIBAN

W.A.Nos.1073 & 1074 of 2016

K.Duraisamy Appellant in
W.A.No.1073 of 2016
Mrs.A.Baby Appellant in
W.A.No.1074 of 2016

Vs.

1.Chennai Metro Rail Ltd.,
rep.by its General Manager,
Harini Tower,
No.7, Conron Smith Road,
Gopalapuram,
Chennai-600 086 1st respondent in
both the W.A.1073/2016 and
Respondent in W.A.1074/2016

2.Chennai Metro Rail Ltd.,
rep.by its Managing Director,
Harini Tower,
No.7, Conron Smith Road,
Gopalapuram,
Chennai-600 086 2nd Respondent in
W.A.No.1073 of 2016

Writ Appeals preferred under Clause 15 of the Letters Patent
against the order dated 31.03.2016 made in W.P.No.31318 of 2015
and W.P.No.34801 of 2013.

WP.No.31318 of 2015

Writ Petition was been filed under Article 226 of the
Constitution of India praying for the issuance of a writ of
mandamus directing the respondents to pay a compensation for a
sum of Rs. 30 Lakhs (Rupees Thirty Lakhs Only) as a compensation
to the petitioner towards the damages caused against the super
structure of the building at Old No.40 New No.83 Swami Naicken
Street Chintadripet Chennai - 600 002 apart from pay a sum of
Rs. 5 Lakhs (Rupees Five Lakhs Only) for causing Stress mental

agony suffering and permanent disturbances to this petitioner within a prescribed time limit.

WP.No.34801 of 2013

Writ Petition No.34801 of 2013 has been filed under Article 226 of the Consitution of India, praying for issuance of a writ of mandamus directing the respondent to pay a compensation for a sum of Rs.20 00 000/- (Rupees Twenty lakhs only) as a compensation to the petitioner and joint owners towards the damages caused against the superstructure of the building at Old No.2 New No.3 Agraharam Street Chintadripet Chennai - 2. apart from that pay a sum of Rs.5 00 000/- (Rs. five lakhs) for causing stress mental agony and sufferings within a time limit

For Appellants :Mr.S.Prabhu for
Mr.A.Manohar

For Respondents :Mr.Jayesh B.Dolia

COMMON JUDGMENT

(Judgment of the Court was delivered by HULUVADI G.RAMESH,J)

These writ appeals are directed against the order dated 31.03.2016, made in W.P.Nos.31318 of 2015 and 34801 of 2013, wherein the learned Single Judge dismissed the writ petitions filed by the appellants/writ petitioners seeking compensation against the respondents for the damages caused to the superstructure of their respective buildings and also for the stress, mental agony and permanent disturbances caused to them.

2. The learned single Judge, while dealing with the matter, based on the opinion expressed by the Technical Engineer, Geotechnical Engineering Division, Department of Civil Engineering, Indian Institute of Technology, Madras, and in furtherance of the interim order, has finally disposed of the writ petitions, holding that this Court cannot give a direction to the respondents to pay compensation to the writ petitioners, as the matter involves disputed questions of fact.

3. We have heard the learned counsel for the appellants and the learned counsel appearing for the respondents and we have also perused the records carefully.

4. The apprehension of the appellants/writ petitioners is that the water level is depleted and also the building has developed several air-cracks etc.

5. It is seen from the records that the Expert's opinion is to the effect that the stability of the building is not in dangerous condition. Since the work is predominantly carried out by the Government for the public purpose, the apprehension expressed by the appellants/writ petitioners cannot be dealt with in the writ proceedings, to award any damages. Unless and until it is established, as a matter of fact finding, by way of enquiry or separate or appropriate proceedings, the prayer sought for by the appellants/writ petitions cannot be entertained. The appellants have straight away approached this Court seeking compensation of Rs.30 lakhs against the respondent authority and the learned single Judge, referring the opinion of the technical engineer, dismissed the writ petitions holding that no document has been produced to show the damages caused to the buildings and also opined that the same could be rectified. We do not find any error as such being committed by the learned single Judge in the orders under challenge. Therefore, the writ appeals are dismissed. However, if the appellants/writ petitioners have got any apprehension or if any prima facie case is made out, they can very well approach the appropriate forum to express their grievance, in accordance with. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

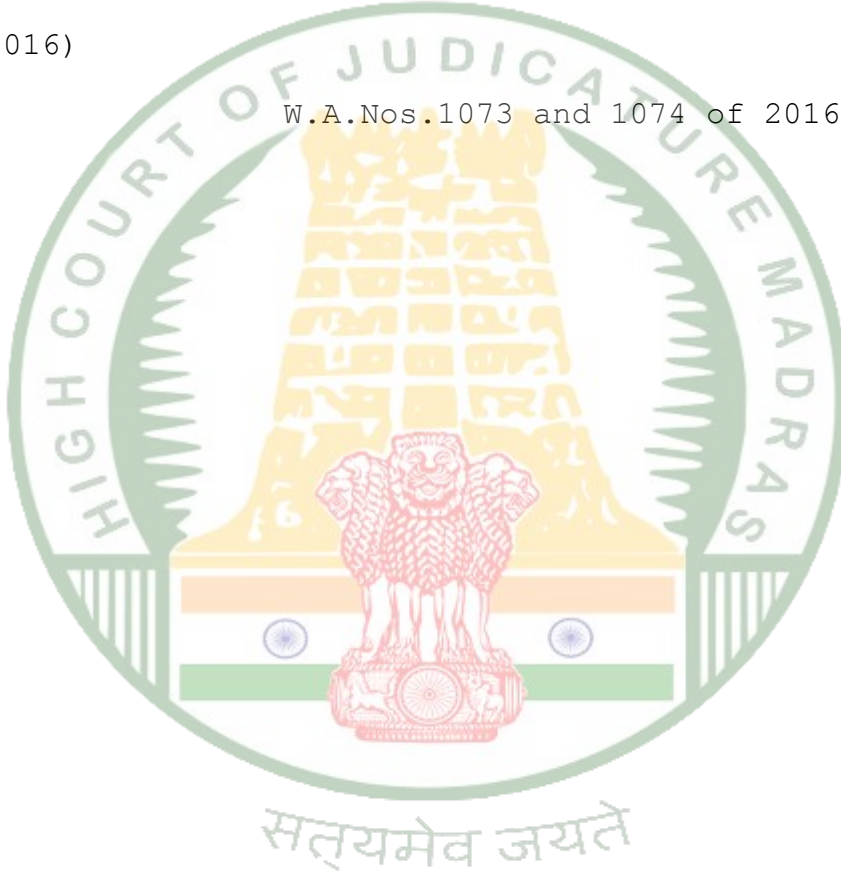
1.The General Manager,
Chennai Metro Rail Ltd.,
Harini Tower,
No.7, Conron Smith Road,
Gopalapuram,
Chennai-600 086

2.Managing Director,
Chennai Metro Rail Ltd.,
Harini Tower,
No.7, Conron Smith Road,
Gopalapuram,
Chennai-600 086

+2cc to Mr.A. Manohar, Advocate, S.R.No.69294,69293
+2cc to Mr.Jayesh B. Dolia, Advocate, S.R.No.68751,68752

ss(CO)
md(30/12/2016)

W.A.Nos.1073 and 1074 of 2016



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