

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP. No.17089 of 2018

Prashanth Fertility Research Centre Private Limited,
Rep. by its Managing Director,
Dr.G.Gopalaswamy. Petitioner

Vs

- 1.The Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board, Velachery,
Chennai.
- 2.The Chief Manager O & M,
Chennai Metropolitan Water Supply &
Sewerage Board, 1, Pumping Station Road,
Chindadripet, Chennai- 2.
- 3.Area Engineer XIII,
42, 1st Main Road,
Indira Nagar, Adyar,
Chennai - 600 020. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Mandamus, directing the respondents to provide water connection to the petitioner hospital building situated at New No.285, Old No.36, Velachery Main Road, Velachery, Chennai.

For Petitioner : Mrs.Hema Sampath Senior Counsel
for Mr.M.Naraayanaswamy

For Respondents : Mr.N.Ramesh
Standing Counsel

O R D E R

The Writ Petition has been filed seeking a direction to the respondent to provide water connection to the petitioner hospital in New No.285, Old No.36, Velacherry Main Road, Chennai.

2. According to the petitioner they are running a Hospital viz., Prashanth Fertility Research Centre Private Limited, and

they are proposed to construct a new hospital at New No.285 (Old No.36) & New No.287 (Old No.36A), Velachery Main Road for additional purpose. They have purchased land and building and also applied for building permission from CMDA, and the above plan was also approved and sanctioned on 28.02.2013. Thereafter, the hospital was constructed in the year 2017, consequently Greater Chennai Corporation has also assessed the property, for property tax separately and issued two assessment orders. They are also paying the property tax separately for both the buildings. Insofar as the Water and Sewerage connection for the building situated at New No.287 (Old No.36A) was given in the year 2013, with assessment No 13-179-10157-000. The petitioner has applied for water connection for the new building situated in New No.285, (Old No.36) along with the approved plan issued by the CMDA, and the property tax assessment by the Corporation. After receipt of the application, the third respondent sent a letter to the petitioner stating that, the building is not a newly constructed separate building, and it is only an additional construction to the existing building, and new water and sewerage connection can not be provided, as water and sewerage connection already available in the another premises.

3. According to the petitioner, both building are separate building, having separate water connection. In respect of building in New No.287 (Old No.36A) the water and sewerage connection is available, and so far as the building in New No.285 (Old No.36), even though a separate water and sewerage connection bearing No.13-179-10109-000 was granted, subsequently it was disconnected before commencing new construction. Apart from that, separate planning and building permission was obtained from CMDA for both the buildings, property tax was also assessed separately, now the respondents cannot treat both buildings as single unit and refuse to give water connection. The petitioner made representations to the authorities but it was not considered. Hence, the present Writ Petition has been filed.

4. The third respondent has filed a counter affidavit stating that, the building plan submitted by the petitioner for both the buildings at Old Nos.36 & 36A and New Door Nos.285 & 287, Velachery Main Road, Chennai -42 has been approved by the CMDA, and also the Greater Chennai Corporation. According to sanction plan and assessment of property tax by the Greater Chennai Corporation, the Board had already given both water and sewer connections on 26.06.2010 vide W.A. No.11455 and S.A.No.10372 dated 17.11.2009 under group development premises scheme, to the petitioner's hospital premises. Now the petitioner requested for another water connection for additional

buildings constructed in the same hospital premises. The request was not considered as the Water and Sewer connections facilities were already in existence in the petitioner hospital premises. In the above circumstances, petitioner was requested to pay the difference amount for additional building as per the Rules and Regulations in force. It is not correct to say that Property Tax was separately assessed by the Corporation for the additional building.

5. It is further stated by the third respondent that the petitioner's building was not treated as a separate building, it is only a group development building in the same hospital. Hence more than one connection cannot be given to the petitioner.

6. The petitioner has filed reply affidavit stating that, so far as the building in Old No.36A, New No.287, Velachery is concerned, the petitioner has only constructed one more floor and not constructed a new building, and also got partial completion certificate from CMDA, and applied for necessary upgradation of the existing water & sewage connection bearing CMC. No.13/179/101157/000 and the petitioner has also paid necessary fee.

7. The learned senior counsel appearing for the petitioner contended that both building are separate buildings and in respect of Door No.285 they have only put up an additional construction after getting separate sanction plan and in respect of Door No.287 is concerned, it is an old building that they have demolished and constructed a new building. Even for the building Door No.287 separate water connection has been given by the CMDA. At the time of demolition, the service connection was disconnected by the CMDA. At any rate, the respondent cannot treat the building as group development building and refuse to give water connection. Now, the Petitioner is also ready and willing to pay necessary charges for getting water and sewerage service connection as new connection

8. Per contra, the learned counsel appearing for the respondent submitted that both the building cannot be treated as individual buildings and petitioner has already availed connection for one building and new water and sewerage connection cannot be given to another building as per the Board Regulations.

9. I have considered the rival submissions and perused the materials available on record.

10. It is an admitted fact that there are two buildings in Door No.285 and 287. For both the door numbers, earlier water

and sewerage connection has been given by the respondents. So far as Door No.287 is concerned, the petitioner has only put up additional construction in the existing building and they obtained a water and sewerage connection in the building. So far as the Door No.285 is concerned, it is an old building and the petitioner has demolished the same and constructed a new building. While demolishing the building, water and sewerage connection has been disconnected by the respondents. After construction of a new building, the petitioner ought to approach the respondents seeking for a fresh water and sewerage connection. But, it has been refused by the respondents on the ground that since the petitioner is running a hospital in both the buildings, the buildings cannot be treated as separate building, and it can only be construed as a group development buildings and only one water and sewerage connection can be given to both the buildings.

11. On perusal of records, it could be seen that both the buildings, namely, door no.285 and 287 have always been treated as a separate building and separate property tax assessment was made and separate water sewerage connection has been given, and separate planning approval was given by the CMDA, all along both the buildings were treated as separate buildings. Till date, separate door numbers have been given to both the buildings as 285 and 287. Merely because, the petitioner is running a hospital in both the buildings, it cannot be treated as a single unit and bring the buildings under the group development building.

12. In the said circumstances, this Court is of the view that the stand taken by the respondents that treating both the buildings as one unit cannot be countenanced. Hence, the respondents are directed to consider the petitioner's application for seeking separate water and sewerage connection in respect of the building in Door No.285 ,in Velacherry Main Road, Velachery and pass suitable orders granting water and sewerage connection , after collecting necessary fees, within a period of six weeks from the date of receipt of a copy of this order.

13. Accordingly, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkp/mrp

To

1.The Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board, Velachery,
Chennai.

2.The Chief Manager O & M,
Chennai Metropolitan Water Supply &
Sewerage Board, 1, Pumping Station Road,
Chindadripet, Chennai- 2.

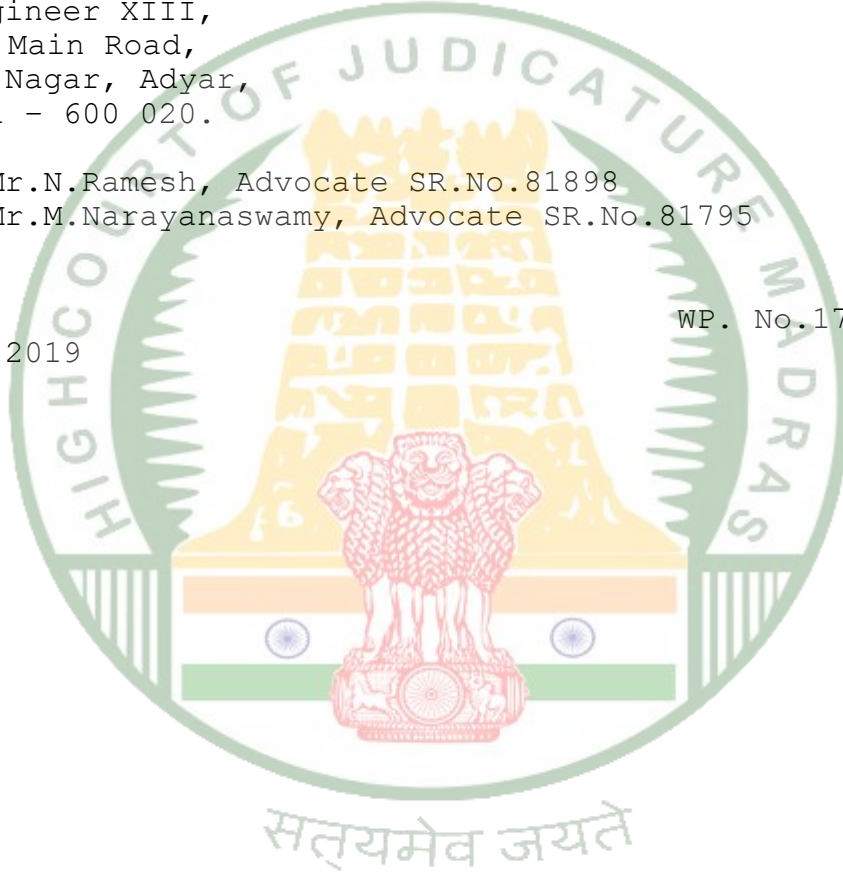
3.Area Engineer XIII,
42, 1st Main Road,
Indira Nagar, Adyar,
Chennai - 600 020.

+1 cc to Mr.N.Ramesh, Advocate SR.No.81898

+1 cc to Mr.M.Narayanaswamy, Advocate SR.No.81795

CSL/11.01.2019

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