

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 8/4/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.10058 of 2019

Sri Ponnamman Nagar Residents

Welfare Association

(Reg.No.220/05)

rep. By Mr.R.Babu

Committee Member

12 Ponnamman Nagar

Manali New Town

Chennai 600 103.

... Petitioner

Vs

1. The Principal Secretary to Government
Housing and Urban Development Department
(Tamil Nadu Slum Clearance Board)
Fort St. George
Chennai 600 009.

2. The Chairman
Tamil Nadu Pollution Control Board
76 Mount Road, Guindy
Chennai 600 032.

3. The Managing Director
Tamil Nadu Slum Clearance Board
No.5 Kamarajar Salai, Chepauk
Chennai 600 005.

4. The Assistant Engineer
Tamil Nadu Slum Clearance Board
Thondiarpet
Chennai 81.

5. The Commissioner for Corporation
Corporation of Chennai
Rippon Building
Chennai 600 003.

6. The Zonal Officer
Corporation of Greater Chennai
Zone II, Manali Zone
Chennai 600 068.

7. Renaatus Projects Private Limited
rep. By its Proprietor
No.156 Mupllapurappu
N.G.Palayam (Post)
Erode 638 115.

8. V. Sathyamoorthi & Co
rep. By its Proprietor
No.41 Patel Road
Erod 638 001.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 to 6 to take appropriate action on the representation of the petitioner dated 15/3/2019 of the general public at large and conduct and enquiry on petitioner's representation and take action in accordance with law.

For petitioner ... Mr.G. Ilamurugu

For respondents ... Mr.E.Manoharan
Additional Government Pleader
for R.1

Mr.S.Prabhu
Standing Counsel
for R.R.3 and 4.

Mr.K.Soundararajan
Standing Counsel
for R.R.5 and 6.

O R D E R

(Order of the Court was made by Subramonium Prasad,J)

Instant public interest litigation has been filed, to direct the respondents 1 to 6, to take appropriate action, on the representation of the petitioner, dated 15/3/2019, and the general public at large and conduct an enquiry, on the petitioner's representation and take action in accordance with law. The petitioner is the Sri Ponnamman Nagar Residents Welfare Association. According to the petitioner, lands acquired by the Government were handed over to the Slum Clearance Board. Slum Clearance Board decided to put up a construction, on the land, through respondents 7 and 8.

2. It is stated in the petition that between 6.00 a.m., and 10.00 p.m., respondent Nos.9 and 10 are adopting Hammer Pile method instead of Ring Pile method. According to the petitioner, lot of noise and dust are caused by the pile method. It is stated that due to noise pollution children are not able to study and it causes problems to the old and infants. Petitioner relies on a research done by the Engineering Students of Cambridge University to substantiate that hammer pile method is a archaic and unsuitable method of laying pile foundation.

3. Petitioner states that they have given complaints to the Police and have also given representations to various authorities, complaining about the noise and dust pollution caused by the piling, which is being done by the hammer pile method. The said representations have not been considered and therefore petitioner has filed the instant writ petition praying for the relief as stated supra.

4. Heard Mr.G.Ilamurugu, learned counsel for the petitioner, Mr.E.Manoharan, learned Additional Government Pleader for the first respondent, Mr.S.Prabhu, Standing Counsel for the respondents 3 and 4 and Mr.K.Soundararajan, Standing counsel for the respondents 5 and 6.

5. The point which arises for consideration is whether the noise pollution level is within the permissible limits. Apart from the research papers that too from Cambridge University, there is no material has been given by the petitioner.

6. In exercise of the powers conferred under the Environment (Protection) Act, 1986, Government has framed the Noise Pollution (Regulation and Control) Rules, 2000 prescribing the standards in respect of noise. Rule 8 of the Noise Pollution (Regulation and Control) Rules, 2000, reads as under:-

Power to prohibit, etc., continuance of music sound or noise - (1) If the authority is satisfied from the report of an officer in charge of a police station or other information received by him (including from the complainant) that it is necessary to do so in order to prevent

annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any person, who dwell or occupy property on the vicinity, he may, by a written order, issue such directions as he may consider necessary o any person for preventing, prohibiting, controlling or regulating -

(a). the incidence or continuance in or upon any premises of

(i). any vocal or instrumental music,

(ii). sounds caused by playing, beating, clashing, blowing or use in any manner whatsoever of any instrument including loudspeakers, (public address systems, horn, construction equipment, appliance or apparatus) or contrivance which is capable of producing or reproducing sound, or

(iii). sound caused by bursting of sound emitting fire crackers, or)

b. the carrying on in or upon, any premises of any trade, avocation or operation or process resulting in or attended with noise.

(2). The authority empowered under sub-rule (1) may, either on its motion, or on the application of any person aggrieved by an order made under sub-rule (1), either rescind, modify or alter any such order.

Provided that before any such application is disposed of, the said authority shall afford to the applicant (and to the original complainant, as the case may be), an opportunity of appearing before it either in person or by a person representing him and showing cause against the order and shall, if it rejects any such application either wholly or in part, record its reasons for such rejection.

SCHEDULE
AMBIENT AIR QUALITY STANDARDS IN RESPECT OF NOISE

AREA CODE	CATEGORY OF AREA/ZONE	LIMITS IN DB (A) LEQ.	
		DAY TIME	NIGHT TIME
A	Industrial area	75	70

AREA CODE	CATEGORY OF AREA/ZONE	LIMITS IN DB (A) LEQ.	
		DAY TIME	NIGHT TIME
B	Commercial area	65	55
C	Residential area	55	45
D	Silence zone	50	40

Note -

1. Day time shall mean from 6.00 a.m to 10.00 p.m.
2. Night time shall mean from 10.00 p.m t 6.00 a.m.
3. Silence zone is an area comprising not less than 100 metres around hospitals, educational institutions, Courts, religious places or any other area which is declared as such by the competent authority.
4. Mixed categories of areas may be declared as one of the four abovementioned categories by the competent authority.

7. The petitioner has to first establish as to whether the noise pollution that is being caused by the hammer pile method is in excess of the ambient air quality standards prescribed under law. The petitioner has to approach the Pollution Control Board, to ascertain the level of noise that is being caused.

8. It is well settled that it is not for the Courts to decide as to which type of piling operation has to be done. Courts cannot be a panacea for all ills. Instant writ petition is frivolous and bereft of any materials and is asking the Courts, to perform Governmental functions, and the High Court must refrain while exercising powers, under Article 226 of the Constitution of India. Despite the fact that the writ petition is frivolous, which has resulted in wastage of judicial time, we are refraining from imposing costs.

9. In the result, writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mvs/pkn.

To

1. The Principal Secretary to Government
Housing and Urban Development Department
(Tamil Nadu Slum Clearance Board)
Fort St. George
Chennai 600 009.
2. The Chairman
Tamil Nadu Pollution Control Board
76 Mount Road, Guindy
Chennai 600 032.
3. The Managing Director
Tamil Nadu Slum Clearance Board
No.5 Kamarajar Salai, Chempauk
Chennai 600 005.
4. The Assistant Engineer
Tamil Nadu Slum Clearance Board
Thondiarpet
Chennai 81.
5. The Commissioner for Corporation
Corporation of Chennai
Rippon Building
Chennai 600 003.
6. The Zonal Officer
Corporation of Greater Chennai
Zone II, Manali Zone
Chennai 600 068.

+1 cc to Government Pleader Sr.No. 34069

+1cc to Mr.K.Soundararajan , Advocate SR.No. 33925

+1cc to Mr.S.Prabhu, Advocate SR.No. 33840

+1cc to Mr. P.Keethi varaman, Advocate SR.No. 33791

Writ Petition No.10058 of 2019

A.SK(04/07/2019)