

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.30795 of 2018 &
W.M.P.No.35935 of 2018

North Thirumalai Nagar
Resident's Welfare & Consumer
Protection Association (Reg.No.99/2001)
Represented by its Secretary,
9/5, 1st Street,
North Thirumalai Nagar,
Villivakkam, Chennai - 600 049. ... Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai.
- 2.The Chief Engineer,
SWD, Greater Chennai Corporation,
Rippon Building, Chennai -3.
- 3.The Zonal Officer,
Zone VIII, 36b/12b, Pulla Avenue,
Aminjikarai, Chennai - 600 029.
- 4.The Assistant Engineer,
Corporation of Chennai,
I Block, 5th Street,
Annanagar, Chennai-40.
- 5.The Managing Director,
CMWSSB, No.1, Plumbing Station Road,
Chinthathripet, Chennai - 2.
- 6.The Assistant Engineer,
CMWSSB, 16/30b, J Block,
Anna Nagar West, Chennai - 40.
- 7.The General Manager,
ICF, Chennai - 38.

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Mandamus, directing the first, fifth and seventh respondents to open the storm water inlet at the Junction of the Dr.Ambedkar Road and 1st Street North Thirumalai Nagar, Villivakkam, Chennai-49, alternatively, the first and fifth respondents may be directed to provide Separate Storm Water Drainage line for North Thirumalai Nagar, Villivakkam, Chennai - 49.

For Petitioner : Mr.R.Rajesh Kumar

For Respondents : Mrs.Karthika Ashok
Standing Counsel for Corporation
for R1 to R4
Mr.M.Jothikumar
Standing Counsel for CMWSSB
for R5 & R6
Mr.M.Vijay Anand for R7

O R D E R

The prayer in the Writ Petition is for issuance of Writ of Mandamus, directing the first, fifth and seventh respondents to open the storm water inlet at the Junction of the Dr.Ambedkar Road and 1st Street North Thirumalai Nagar, Villivakkam, Chennai-49 and for alternative direction to the first and fifth respondents to provide separate storm water drainage line for North Thirumalai Nagar, Villivakkam, Chennai - 49.

2. The petitioner is the North Thirumalai Nagar Resident's Welfare & Consumer Protection Association. They would submit that at the junction of the 1st Street North Thirumalai Nagar Road and Dr.Ambedkar Road, there is a storm water inlet, through which, the rain water from Moorthy Nagar, South Thirumalai Nagar, Thirumalai Nagar, Thirumalai Complex and North Thirumalai Nagar used to flow to the storm water drain and further used to flow into the adjoining lake. While so, on 01.10.2017, the seventh respondent illegally without having any authority blocked the storm water inlet by using concrete Sand Bags. During heavy rain on 30.10.2017, the entire north Thirumalai Nagar was inundated with rain water and entered into many houses. Hence, the petitioner sent a representation to the respondents, however, there was no response, except, for the time being, water was pumped out by motor. The seventh respondent, sent a communication to the first respondent, dated 07.11.2017, stating that they had blocked the sewage outlet from outside and did not block storm water drains from the

surrounding area and asked the first respondent to advise the petitioner / Association not to let the sewage into the lake through Ainsley's drain. The fifth respondent, by communication dated 14.11.2017 stated that "the site had been inspected and it was found that sewage from the service line of three premises has been damaged across storm water drain which results flow of sewage into storm water drain and the same has been rectified and at present, there is no sewage into storm water drain and it was ascertained two days before also." According to the petitioner-Association, the first respondent is the Competent Authority for removal of any blockage in the storm water drainage and the seventh respondent has arbitrarily blocked the storm water inlet and used it as a tool for collecting way leave charges and therefore, the members of the petitioner-Association have suffered various diseases. Hence, the present Writ Petition has been filed.

3. The respondents 1 to 4 have filed a counter affidavit and stated that the seventh respondent has prevented the construction of storm water drainage in the road and also disputed the ownership of Dr.Ambedkar Road and due to that objection, the Corporation could not complete the work.

4. The seventh respondent has filed a counter affidavit, stating that the Government of Madras, by its G.O.Ms.No.1036, dated 11.03.1963 transferred the ownership of the land measuring 68 cents in T.S.No.183, Pymash No.337 part of Sh.Ayanavaram Villlage, Madras, to and in favour of Integral Coach Factory for a sum of Rs.7,535.04 n.p, and after paying the said amount, the said land was registered in their name. On accepting their ownership and rights over the entire road used by the residents, all are paying way leave charges to them and the same was suppressed by the petitioner. It is further stated that the Corporation has approached the seventh respondent for construction of storm water drain and hence, the seventh respondent, advised the Chennai Corporation to pay Rs.3,06,16,961/- as way leave charges vide letter dated 31.10.2018. In turn, the Chennai Corporation Officials stated their inability to pay such a huge amount and requested ICF to give permission for construction of storm water drain. In order to sort out the said issue, The Principal Engineer/ ICF conducted a meeting with Corporation Officials on 27.11.2018 and permitted to construct the storm water drain with certain conditions and the Chennai Corporation also agreed for the same. It is further stated that due to filing of the Writ Petition filed by the petitioner-Association, commencement of work is delayed.

5. The learned Standing Counsel for the Corporation is not disputing the meeting conducted on 27.11.2018 by the Principal Engineer / ICF with Corporation Officials and also in that

meeting, permission was granted to construct the storm water drain and the construction should be carried out by Corporation at their own cost.

6. In the light of the above submissions and stand taken in the counter affidavit as well as meeting held between the Officials of the Corporation and the seventh respondent on 27.11.2018, there is no impediment for the construction of storm water drainage in the disputed land by the Corporation. Accordingly, the Writ Petition is disposed of in terms of the meeting held between the Officials of the Corporation and the seventh respondent on 27.11.2018. It is made clear that both parties shall abide by the terms and conditions agreed between them. Insofar as dispute with regard to ownership is concerned, it is for the parties to seek remedy before the appropriate forum. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

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7.The General Manager,
ICF, Chennai - 38.

+1 CC to Mr.R.Rajesh Kumar, Advocate sr 26444.
+1 CC to Govt. Pleader sr 25754.
+1 CC to Mr.M.Jothikumar, Advocate sr 25281.
+1 CC to M/s.Karthikaa Ashok, Advocate sr 25200.
+1 CC to Mr.M.Ajay Anand, Advocate sr 25030.

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RV(CO)
SP(06/05/2019)



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