

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23381 of 2017
WMP.No. 24473 of 2017

1. K.P. Shanmugam
2. Mrs. P.K. Nalini ...Petitioners

-vs-

1. Managing Director (Area IV),
Chennai Metropolitan Water Supply
and Sewage Board,
No.1, Pumping Station Road,
Chindatripet, Chennai - 600 002.
2. Senior Accounts Officer - IV, Area -IV,
Chennai Metropolitan Water Supply
and Sewage Board,
II Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040.
3. Deputy Area Engineer,
Area Office- V,
II Avenue, 12th Main Road,
Thirumangalam, Chennai - 600 040.

4. Mr.K.P. Gunasekaran
5. Mrs. K. Bhanumathy ...Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to provide a sub connection for drinking water and sewage connection to the petitioner's portions at Door No.316/1 and 316/2, Konnur High Road, Ayanavaram, Chennai - 600 023 at their expenses and grant such other suitable reliefs.

For Petitioners : Mr.C.Uma Shankar

For Respondents : Mr.G.Janakiram,
Standing Counsel [R1 to R3]
Mr.R.Thiagarajan [R4 & R5]

O R D E R

Heard Mr.C.Uma Shankar, learned counsel for the petitioner, Mr.G.Janakiram, learned standing counsel for the respondents 1 to 3 and Mr.R.Thiagarajan, learned counsel for the respondents 4 and 5.

2. With the consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioners are husband and wife and the 4th respondent is the brother of the 1st petitioner and the 5th respondent is the wife of the 4th respondent. There is a dispute between the petitioners and the respondents 4 and 5 in respect of the property in question and the matter is now pending before this Court in S.A.No.1195 of 2009.

4. The present dispute is regarding to water and sewage connection. The petitioners seek for a separate water and sewage connection for the portion of the building, which is in their occupation. The 3rd respondent is present in Court and as per the earlier direction, a rough sketch along with a photograph has been filed. From the photograph, it is seen that the building is a commercial building consisting ground plus two floors. There are shops in the ground floor and it is submitted that first and second floors have been let out for commercial purposes. The petitioners are in occupation of two shops in the ground floor and the remaining portion of the building is in the possession of respondents 4 and 5. In the ground floor portion, one of the shops has been let out to TASMAL and in the other shop they are running a sweet stall. The building has one sewage and drinking water connection. The drinking water supply is through a sump, which is constructed in the portion occupied by the 4th respondent. The sewage connection terminates in a chamber, which is in a pathway leading to the premises of the 4th respondent and near the stair case area. So far as the sewage connection is concerned, this Court is not inclined to issue any direction as of now and it is for the parties to work out their rights in the pending second appeal. However, with regard to supply of water, the petitioners would state that they have been paying water and sewage tax and the portion in their possession/occupation has been assessed to property tax in the name of the 1st petitioner. Thus to have workable solution, this Court is inclined to issue appropriate direction.

5. The respondents Board are right in their submission that as long as the building is a single unit, it has to be treated as a multi-storeyed building and only one water and sewage connection can be given. However, since there is a dispute between the brothers, which has been lingering for several years

and considering the age of both the persons and their health condition, the following direction is issued for the present dispute.

6. Accordingly, the respondents Board are directed to provide a 'T' junction in the water line, which is passing through the passage and it can be connected to the sump, which can be constructed by the petitioners in their premises. It should be ensured that on account of the 'T' connection, the water to the sump situated in the 4th respondent's area should not be affected and the gradient of the pipe line shall also be effected in such manner. The entire cost shall be borne by the petitioners and the work shall be carried out in the presence of the petitioners and the respondents 4 and 5 and the officials of the respondents Board. It is made clear that this order has been passed only to give a quietus to the present dispute and in no manner affects the case of the parties in the pending second appeal. As observed earlier, separate sewage connection as of now cannot be granted to the petitioners and it shall be common to the petitioners and the respondents 4 and 5.

7. With regard to the other disputes, it is well open to the petitioners and the respondents 4 and 5 to put forth their submission in the pending second appeal.

8. The above direction should be complied with by the respondents within a period of eight (8) weeks from the date of receipt of a copy of this order. The date may be fixed with the consent of the petitioners and the respondents 4 and 5 to undertake the work.

With the above observations, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mp

Area Engineer,
Office- V,
Annamalai Avenue, 12th Main Road,
Changanallur, Chennai - 600 040.

W.P.No.23

.R.Thiagarajan, Advocate, S.R.No.18004
.C.Umashankar, Advocate, S.R.No.17561
.G.Janakiraman, Advocate S.R.No.18586

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MP (Co)
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