



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.32699 of 2018

V.Vasanthakumari

..Petitioner

.v.

1. The Commissioner,
Greater Chennai Corporation,
Chennai.
2. The Assistant Executive Engineer,
Ward-64, Zone-6,
Corporation of Chennai,
Chennai.
3. The Area Engineer,
Chennai Metropolitan Water Supply
and Swerage Board,
Zone-6, Chennai.
4. The Zonal Health Officer,
Zone-VI,
Greater Chennai Corporation,
Chennai.

5.Mr.S.Kodhandaraman

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to permit the petitioner to rectify the drainage lines existing on the back side of the building bearing Door No.23, 1st Floor, 2nd Main Road, Tirupathi Nagar, Kolthur, Chennai-99 which were blocked by the 5th respondent by inserting Iron Rods.

For Petitioner : Mr.R.Bharath Kumar
For R 1, 2 & 4 : Mrs.Karthikaa Ashok
For R 3 : Mr.N.Ramesh
Standing Counsel



O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to permit the petitioner to rectify the drainage lines which is alleged to have been blocked by the 5th respondent.

2.The case of the petitioner is that the 5th respondent is a builder and he had obtained a planning permission from the Corporation of Chennai to construct flats. According to the petitioner, the 5th respondent was entitled to put up three dwelling units, one in the ground floor and two in the first floor. The further case of the petitioner is that the 5th respondent has proceeded to unauthorisedly construct one additional flat in the ground floor. The daughter of the petitioner is in possession of one of the flat in the ground floor and the petitioner is in possession of one of the flat in the first floor. According to the petitioner, when the unauthorised construction was questioned, he has proceeded to break the drainage lines and inserted iron rods and as a result of the same, the petitioner is not even able to use the toilet and the petitioner has been put to untold hardship. A representation was made by the petitioner to permit the petitioner to rectify the drainage lines and the petitioner was also willing to bear the cost.

3.The Corporation of Chennai has filed a counter affidavit. A stand has been taken in the counter affidavit to the effect that there is a ongoing dispute between the petitioner and the 5th respondent with regard to the right over the property and the 5th respondent has given a complaint to the effect that the petitioner is letting out the waste water and sewage into his property. Therefore, the Corporation had proceeded to issue a notice under Section 44 of the Public Health Act. A specific stand has been taken in the counter affidavit to the effect that the sewage line of the petitioner is blocked and therefore the drained water is let out. The Corporation of Chennai wants the dispute between the petitioner and the 5th respondent to be resolved before any action can be taken by the Corporation of Chennai.

4.The 5th respondent has filed a counter affidavit in this case and he has taken a stand that the petitioner has attempted to alter and occupy the common passage and this was prevented. A civil suit has been filed in OS No.5456/2018, before the City Civil Court and the same is pending. It is further averred in the counter affidavit that a private dispute which is pending before the Civil Court is now sought to be agitated by filing the present writ petition and such a factual



shall rectify the drainage lines and ensure that the sewage water from the flat belonging to the petitioner is properly drained without causing any damage to the rights of the 5th respondent and also without causing any public nuisance. This process shall be completed within a period of two weeks from the date of the inspection. The petitioner shall bear the cost. It is made clear that this arrangement will not in any way enure to the benefit of either of the parties in the civil suit that is pending before the concerned court and the civil court shall independently consider the rights of the parties by not placing reliance on this order.

This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The Commissioner,
Greater Chennai Corporation,
Chennai.
2. The Assistant Executive Engineer,
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Greater Chennai Corporation,
Chennai.

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SSV(CO)
GS(08/07/2020)