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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM :

THE HON'BLE MR. JUSTICE M. DURAISWAMY
AND
THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

Writ Appeal No.189 of 2013
and
M.P.No.1 of 2013

Chennai Metropolitan Water Supply
and Sewerage Board,
Represented by its Managing Director,
No.1, Pumping Station Board,
Chintadripet,
Chennai - 600 002.

...Appellant/3rd Respondent

Vs.

1.State Bank of India,
Represented by Assistant General Manager,
R.Mani,
(Premises and Estate),
No.16, College Lane,
Chennai - 600 006.

..1st Respondent/Petitioner

2.The Managing Director,
Tamil Nadu Housing Board,
439, Anna Salai, Nandanam,
Chennai - 600 035.

..2nd Respondent/1st Respondent

3.The Executive Engineer and
Administrative Officer (i/c),
Tamil Nadu Housing Board,
Special Project Division,
Tamil Nadu Housing Board
Shopping Complex,
Ashok Nagar, Chennai - 600 083.

...2nd Respondent/2nd Respondent



Prayer : Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 17.08.2012 made in W.P.No.27817 of 2007 and amended as per order of this Court dated 19.10.2012.

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W.P. No. 27817/2007:

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified mandamus calling for the records pertaining to the Letter No.SPDA1/1070/02 dated 20.6.2007 culminating in the Letter No.SPDA1/1070/02 dated 09.8.2007 on the file of the second respondent herein and to quash the same and consequently direct the second respondent to hand over the internal water distribution system at SAF Games Village, Koyambedu to CMWSSB, the third respondent herein in so far as it relate to the petitioners Flats in Block Nos. B12, B14, B15, B18, C2, C3, C4, C5 and C15 in SAF Games Village, Koyambedu, Chennai immediately.

For Appellant : Mr.S.Silambanan
Additional Advocate General
assisted by
Dr.M.Paul Sundar Singh

For R1 : Mr.C.Mohan
for M/s.King and Partridge

For R2 & R3 : Mrs.R.Gowri

J U D G M E N T
(Delivered by M. DURAISWAMY, J.)

Challenging the order passed in W.P.No.27817 of 2007, the 3rd respondent in the writ petition, namely, the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) has filed the above Writ Appeal.

2.The 1st respondent-State Bank of India filed the writ petition seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the letter dated 20.06.2007 culminating in the letter dated 09.08.2007 on the file of the 3rd respondent and to quash the same and consequently, to direct the 3rd respondent to hand over the internal water distribution system at SAF Games Village, Koyambedu, to CMWSSB, the appellant herein, so far as it relates to the 1st respondent's Flats in Block Nos.B-12, B-14, B-15, B-18, C-2, C-3, C-4, C-5 and C-15 in SAF Games Village, Koyambedu, Chennai.



3.The learned Single Judge, after taking into consideration the case of both sides, disposed of the writ petition with a direction to the respondents 2 and 3 to hand over the entire water distribution system for the 151 apartments in question to the appellant, within a period of two months from the date of receipt of a copy of the order and also observed that the question of method of calculating the charges and the question of arrears are left open to the parties to work out in the manner known to law.

4.When the Writ Appeal is taken up for hearing, Mr.C.Mohan, learned counsel appearing for the 1st respondent/writ petitioner, filed a counter affidavit, dated 10.12.2021, wherein, it has been stated as follows :

"7.Whereas, due to efflux of time, the issue resolved between Tamil Nadu Housing Board (TNHB) and State Bank of India (SBI) and this 1st Respondent-SBI have paid entire water charges including the last payment of Rs.13,72,000/- (Rupees Thirteen Lakhs Seventy Two Thousand Only-up to June 2021) as demanded by TNHB on 26.7.2021. Further, as of now there is no arrears/due or any amount pending.

8.In view of the above matter, CMWSSB is required to consider the request of this 1st Respondent - SBI to convert to domestic/residential category and CMWSSB shall charge water consumption rate on domestic/residential category directly to SBI. Further, it is humbly prayed before this Hon'ble Court to direct the Appellant-CMWSSB to ensure and provide uninterrupted water supply to 151 apartments of this Respondent - SBI."

5.Mr.S.Silambanan, learned Additional Advocate General appearing for the appellant, submitted that, as rightly stated in Para No.7 of the counter affidavit, due to efflux of time, the issue that arose for consideration in the writ petition no longer survives and the same has also been resolved. However, the learned Additional Advocate General submitted that the protection sought for in Para No.8 of the counter affidavit cannot be granted for the reason that the said prayer is beyond the scope of the writ petition and also that the appellant-CMWSSB cannot give any assurance for the uninterrupted water supply to the 151 apartments.

6.Recording the submissions made by the learned counsel on either side, since the issue raised in the writ petition has



already been resolved due to efflux of time, the Writ Appeal stands closed. No costs. Consequently, connected miscellaneous petition is closed.

7. However, we are not giving any direction to the appellant-CMWSSB to provide uninterrupted water supply to the 151 apartments of the 1st respondent/writ petitioner. In the event of the 1st respondent/writ petitioner giving a representation to the Tamil Nadu Housing Board, seeking to convert the water consumption charges from commercial to domestic/residential category, it is open to the Tamil Nadu Housing Board to consider the same in accordance with law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant General Manager,
State Bank of India,
(Premises and Estate),
No.16, College Lane,
Chennai - 600 006.
2. The Managing Director,
Tamil Nadu Housing Board,
439, Anna Salai, Nandanam,
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3. The Executive Engineer and
Administrative Officer (i/c),
Tamil Nadu Housing Board,
Special Project Division,
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4. The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Board,
Chintadripet,
Chennai - 600 002.



+1 CC to Dr.N. Paul Sundar Singh, Advocayr sr 68598
+1 CC to M/s. King and Partridge, sr 68843.

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Writ Appeal No.189 of 2013

KJ(CO)
SP(04/01/2022)