



W.P.Nos.18147 and 18148 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.Nos.18147 and 18148 of 2014
and
M.P.Nos.1, 1, 2 & 2 of 2014

Babulala L.Shah

..Petitioner in both WPs

Vs.

- 1.The Managing Director,
Chennai Metropolitan Water Supply and Sewage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.
- 2.The Deputy Area Engineer,
Chennai Metropolitan Water Supply and Sewage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.
- 3.Assistant Divisional Engineer,
Construction and Maintenance,
Corporation Roads sub-division,
Chennai – 15.
- 4.The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road, Chennai – 600 008.

..Respondents in both WPs



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Prayer in W.P.No.18147 of 2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for records on files of the 2nd respondent herein in his proceedings in Lr.No.CMWSSB/Area V/DAE-14/Depot 58/Spl/2013 dated 29.07.2013 and quash the same as arbitrary, invalid and illegal and direct the 1st respondent to give the building in New No.91/Old No.92, Poonamallee High Road, Chennai – 84 water and sewerage connection.

Prayer in W.P.No.18148 of 2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, calling for records on files of the 3rd respondent herein in his proceedings in Lr.No.553/2012-13/EVA dated 14.06.2013 and quash the same as arbitrary, invalid and illegal.

For Petitioner : Mr.T.V.Lakshmannan

For Respondents : Mr.Vadivelu Deenadayalan,

Additional Government Pleader for R3

R1, R2 and R4 – No appearance

COMMON ORDER

Despite service the respondents 1, 2 and 4 have not chosen to enter appearance.

2. It is seen from the records that the Chennai Metropolitan Water Supply and Sewage Board (CMWSSB) had directed the petitioner to



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approach the Highways Department for road cut permission and the Highways Department returned the request made by CMWSSB on the ground that the petitioner had put up a compound wall and room in the area that has been gifted by him for the purpose of widening of the road.

3. Mr.T.V.Lakshmanan, learned counsel appearing for the petitioner would submit that the petitioner had already challenged the forced gift obtained by the Highways Department while sanctioning the plan in W.P.No.13576 of 2013. Though the writ petition has been dismissed, the learned counsel has got instructions to prosecute it further by filing an appeal.

4. The entire action appears to stem out of malice, because the petitioner has challenged the forced gift obtained by the respondents. If the petitioner has encroached upon the Highways land, it is for the Authorities to take action for recovery of possession. They cannot refuse permission for road cut on the ground that the petitioner is an encroacher. The Tamilnadu Highways Act has an in-built mechanism for removal of encroachment on



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the highways land. It is well open to the Highways Department to invoke such provision to have the alleged encroachment removed. It cannot deny permission for road cut on the ground that there is an encroachment. More so, when the petitioner had claimed that the gift was obtained by coercion and launched proceedings for setting aside the gift.

5. Hence, the writ petitions are **allowed**. There will be a direction to the 3rd respondent to grant necessary permission for road cut to the Chennai Metropolitan Water Supply and Sewage Board within a period of four (4) weeks from the date of receipt of a copy of the order. Upon receipt of such permission, the Chennai Metropolitan Water Supply and Sewage Board viz., 1st respondent shall effect drinking water and sewerage connection within a period of eight (8) weeks thereafter. No costs. Consequently, the connected miscellaneous petitions are closed.

14.10.2022

dsa

Index : No

Internet : Yes

Speaking order



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To

WEB COPY

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R.SUBRAMANIAN, J.

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