



WEB COPY



W.P.No.1667 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE N.MALA**

W.P.No.1667 of 2021

G.Deva

..Petitioner

Vs.

1. The Chennai Metropolitan Water
Supply and Sewerage Board,
represented by its Chairman,
No.1, Pumping Station Road,
Chintadripet,
Chennai - 600 002.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
E.V.R.Road,
Chennai - 600 003.
3. The Executive Engineer,
Corporation of Chennai - ZONE - VIII,
No.36B/12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
4. The Assistant Executive Engineer (Unit -22)
Corporation of Chennai-ZONE-VIII,
No.36B/12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.



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5. The Assistant Engineer(Dn-105),
Corporation of Chennai, ZONE -VIII,
No.36B/12B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.

6. Poongavanam,
Son of Anandhan

7. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

(R7 suo motu impleaded as per
order dated 01.08.2023 passed by
JNBJ & NMJ)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue
a Writ of Mandamus to direct the respondents 1 to 5 to remove the
unauthorised construction made on water drain channel by the 6th respondent
by considering the petitioner's representation dated 13.07.2020.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.R.K.Kalpana
for R1
Mr.D.B.R.Prabu,
Standing Counsel for R2 to R5
Mr.S.Rajendran for R6
Mr.P.Gurunathan,
Additional Government Pleader for R7



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ORDER

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This Writ Petition has been filed for a Mandamus to direct the respondents 1 to 5 to remove the unauthorised construction made on water drain channel by the 6th respondent by considering the petitioner's representation dated 13.07.2020.

2. The case of the petitioner is that the Kavangarai canal was originally formed for the purpose of Virugambakkam drain development plan and the respective land owners have also received the compensation whose lands were acquired for the said purpose. The Kavangarai Canal branch starts from Virugambakkam and gets separated from Koyambedu Pul Canal and crosses Vadapalani. The said canal is of 30 feet in breath and 4 KM in length. The 6th respondent has constructed a building considered to be a partially residential and commercial at No.109, West Periyar Pathai, Arumbakkam, Chennai - 600 106 without approval and building plan. The 4th & 5th respondent issued pre-notice under sections 56 & 57 of Town and Country Planning Act, 1971 asking him to produce the approved plan in notice dated 20.03.2019. The 3rd respondent issued Locking and Sealing Notice to the 6th respondent vide proceedings dated 04.04.2019. Thereafter, no action has been taken by the 3rd



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to 5th respondents against the 6th respondent. These kinds of encroachments are the root cause for the flood in the city. Once 100 feet road is flooded, the entire locality gets flooded as a consequence, the ground floor gets fully waterlogged causing huge inconvenience for the day-to-day life of people and also causing huge traffic for hours together. The petitioner also sent representation to the respondents 1 to 5 to take action against the 6th respondent in this regard. But till date, no action was taken. Hence, the present writ petition.

3. When the matter is taken up, learned standing counsel appearing for the 2nd to 5th respondents Corporation would state that application under Section 80-A filed by the 6th respondent is pending before the Government, but the Government is not a party to this writ petition.

4. In view of the above submission, this Court suo-motu implead "The Secretary to Government, Housing and Urban Development Department, Fort St.George, Chennai - 600 009" as a party respondent/7th respondent to this writ petition.

5. Considering the facts and circumstances of the case, this Court directs



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the 7th respondent to consider the appeal filed by the 6th respondent under

Section 80-A of the Tamil Nadu Town and Country Planning Act and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs.

(J.N.B,J.) (N.M., J.)
01.08.2023

Index : Yes / No
Internet : Yes
vsi

To

1. The Chennai Metropolitan Water Supply and Sewerage Board, represented by its Chairman, No.1, Pumping Station Road, Chintadripet, Chennai - 600 002.
2. The Commissioner, Greater Chennai Corporation, Ripon Buildings, E.V.R.Road, Chennai - 600 003.
3. The Executive Engineer, Corporation of Chennai - ZONE - VIII, No.36B/12B, 2nd Cross Street, Pulla Avenue, Shenoy Nagar, Chennai - 600 030.



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4. The Assistant Executive Engineer (Unit -22)

Corporation of Chennai-ZONE-VIII,

No.36B/12B, 2nd Cross Street,

Pulla Avenue, Shenoy Nagar,

Chennai - 600 030.

5. The Assistant Engineer(Dn-105),

Corporation of Chennai, ZONE -VIII,

No.36B/12B, 2nd Cross Street,

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6. The Secretary to Government,

Housing and Urban Development Department,

Fort St.George,

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J. NISHA BANU, J.
and
N.MALA,J.

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