



W.P.No.9867 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9867 of 2009 and
M.P.No.2 of 2009

Abishek Residential Welfare Association

Rep. by its President Mohapotra

S/o. Jayanth Mohapotra

No.68, East Coast Road

Thiruvananthapuram

Chennai – 41.

.. Petitioner

vs

1. The Chennai Metro Water Supply and Sewerage Board

Rep. by its Superintendent Engineer

Division 155, Chennai – 41.

2. Tamil Nadu Housing Board

Rep. by its Executive Engineer &

Administrative Officer

Basant Nagar Division

Lattice Bridge Road

Chennai – 20.

3. Ramaniyam Ganesh

4. Ramesh Kumbhat

5. V.Ravichandran



W.P.No.9867 of 2009

6. The Tahsildar, Velachery.

7. The District Revenue Officer
Chennai District.

8. The Superintending Engineer
Chennai Electricity Distribution Circle
/ South – II, TANGEDCO
110Kv SS, K.K.Nagar, Chennai – 600 078.

[R5 impleaded vide order dated 10.08.2012 in
M.P.No.1 of 2012 in W.P.No.9867 of 2009]

[R6 *suo motu* impleaded vide order dated
17.11.2022 in W.P.No.9867 of 2009]

[R7 *suo motu* impleaded vide order dated
08.12.2022 in W.P.No.9867 of 2009]

[R8 *suo motu* impleaded vide order dated
21.03.2023 in W.P.No.9867 of 2009]

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to Lr.No.EN/HS/45 86/2007 dated 14.05.2009 issued by the second respondent, quash the same and to direct the first respondent to restore the water supply and to provide necessary basic amenities to the housing complex of the petitioner's association.

For the Petitioner : Mrs.Hema Sampath
Senior Counsel
for Mr.B.Ravi



WEB COPY



W.P.No.9867 of 2009

For the Respondents

: Mr.S.Silambanan
Additional Advocate General
assisted by Mr.K.Subramani
for respondent 1

Mr.D.Veerasekaran
for respondent 2

Not Ready in Notice
for respondent 3

Mr.M.Elumalai
for respondents 4 & 5

Mr.T.Arunkumar
Additional Government Pleader
for respondents 6 & 7

ORDER

The writ petition has been instituted to quash the order dated 14.05.2009 issued by the second respondent discontinuing the water supply and to direct the respondents to restore the water supply connection and provide all necessary basic amenities to the housing block of the petitioner association.

2. The petitioner is Abishek Residential Welfare Association and about 148 flat owners are residing. The Welfare Association is registered in



W.P.No.9867 of 2009

the year 2009 to maintain the flats and for the welfare of the occupants of the flats in the complex. The blocks were constructed and each member of the Association has entered into separate construction agreement with the builder. Necessary building planning approvals were obtained and the permission for providing drainage / sewerage connection from the competent authorities also were obtained by the builder. The building was completed in all respects and thereafter, the electricity connection and water and sewerage connection were also provided by the respondent Board and the members of the petitioner Association are residing in the complex for the past about eighteen years. While so, the adjacent owners of the land raised an objection by stating that the water and sewerage pipeline connections are provided through their private property to the petitioner's flat Association and thus, they are not in a position to develop their property and accordingly approached the authorities for removal of the water / sewerage line and electricity cables.



W.P.No.9867 of 2009

WEB COPY

3. Considering the representation of the owners of the private property, adjacent to the petitioner's property, the Executive Engineer-cum-Administrative Officer, Besant Nagar Division, Tamil Nadu Housing Board passed an order dated 14.05.2009, which is impugned in the present writ petition.

4. The impugned order states that, in order to avoid disputes between the petitioner and the allottees of C.S. site, the petitioner was requested to make necessary arrangements to shift the water supply and sewerage line, trespassing the C.S site, enabling the other owners to develop their property. The said order has been challenged in the present writ petition.

5. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that, all approvals and permissions were obtained from the competent authorities and the petitioner Association has not committed any irregularities or illegalities. After assessing the topography of the land and the area, the competent authorities, during the relevant point of time,



W.P.No.9867 of 2009

WEB COPY

provided water and sewerage connections through the backside of the complex, in spite of providing such lines from the main road ie., the ECR road. The connection had been provided through the backside of the Housing Board land and at that point of time, the petitioner Association was not aware of the fact that it was allotted to private persons. The fifth respondent is a subsequent purchaser from the original allottee and the public land was allotted even before the purchase of the said property. That being the factum, any such removal at this length of time, where 148 families are residing in their respective flats in the complex would cause prejudice to the petitioner's Association.

6. The learned Additional Advocate General appearing on behalf of the first respondent made a submission that based on the assessment made during the relevant point of time in the year 2005, connections were provided. More so, the subject property, in which five blocks were constructed and eight feet below the sewage line, which was in existence and therefore, the authorities ascertained the feasibility and thereafter



W.P.No.9867 of 2009

WEB COPY

decided to give connection through the back side of the complex. Thus, the said decision was taken to provide better service to the residents of the petitioner's Association. Subsequently, the fifth respondent purchased the property and some other portion of the property were allotted to other persons by the Tamil Nadu Housing Board and many complaints were received and under these circumstances, the Tamil Nadu Housing Board passed the order to shift the water / sewerage lines and also the electricity cables.

7. In order to resolve the issues, the learned Additional Advocate General sought for instructions from the competent authorities of the first respondent Board. Accordingly, the Board has given a suggestion that dedicated lines have to be provided to the petitioner / Association, which will incur further expenses. Such dedicated lines are to be provided through main road and the same will serve the purpose without causing hindrance to any of the parties, including the private property owners who had purchased the Housing Board properties.



W.P.No.9867 of 2009

WEB COPY

8. The Tamil Nadu Housing Board has not objected, since they have already developed the properties and sold the same to the allottees. The learned Senior Counsel appearing on behalf of the petitioners made a submission that for providing dedicated lines for water / sewerage and for laying electric cables, the expenditure will be huge and the petitioner are unnecessarily made to suffer. No doubt, the decision was taken in the year 2005 by the Board Authorities considering various factors and provided water / sewerage lines on account of fast development in that locality, more specifically in the ECR road, new connections cannot be maintained through the existing lines, which would cause infringement to the Property Right of the other property owners. Thus, providing dedicated line will be the workable solution.

9. The Right to Property is a Constitutional Right under Article 300A of the Constitution of India and no person shall be deprived of the Property Right. The fifth respondent and other persons have been allotted plots by



W.P.No.9867 of 2009

the Housing Board or purchased their properties from other allottees. Thus, they must be allowed to enjoy the properties.

10. Considering the facts and circumstances, this Court is of the considered opinion that the submissions of the learned Additional Advocate General appearing on behalf of the first respondent Board is the appropriate solution to resolve the issues and to settle the problems amicably.

11. The learned counsel for the fifth respondent states that the electricity cables are also laid through the backside of the complex, which would affect the peaceful enjoyment of the private property owners. Thus, the Superintending Engineer, Chennai Electricity Distribution Circle / South – II, TANGEDCO, 110Kv SS, K.K.Nagar, Chennai – 600 078 has been impleaded *suo motu* as a respondent, only for the purpose of laying cables in coordination with the respondents 1 and 2. Accordingly the respondents 1, 2, 6, 7 & 8 are directed to shift the existing water / sewerage lines and



W.P.No.9867 of 2009

WEB COPY

electricity cables from the private property and provide dedicated connections to the petitioner's residential Welfare Association premises by collecting the expenses and the charges, from the petitioner / Association

12. The petitioner Association shall bear the charges initially and they can approach the competent authorities for providing any concessions with reference to the expenditures to be incurred. Dedicated connections are directed to be provided within a period of six months from the date of receipt of a copy of this order. The petitioners are directed to cooperate with the authorities to complete the work within a period of six months by paying all necessary expenditures and charges. It is made clear that, till the dedicated connections are provided, the existing water / sewerage line need not be disturbed. After providing the dedicated lines to the petitioner complex, the existing old lines are to be disconnected and all the pipes, cables, etc are to be removed by the authorities competent.



W.P.No.9867 of 2009

WEB COPY

13. With these directions, the writ petition is disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No

21.03.2023

Neutral Order: Yes/No

drm

To:

1. The Superintendent Engineer
The Chennai Metro Water Supply and Sewerage Board
Division 155, Chennai – 41.
2. The Executive Engineer & Administrative Officer
Tamil Nadu Housing Board
Besant Nagar Division
Lattice Bridge Road
Chennai – 20.
3. The Tahsildar, Velachery.
4. The District Revenue Officer
Chennai District.
5. The Superintending Engineer
Chennai Electricity Distribution Circle
/ South – II, TANGEDCO
110Kv SS, K.K.Nagar, Chennai – 600 078.



WEB COPY



W.P.No.9867 of 2009

S.M.SUBRAMANIAM,J.

(drm)

W.P.No.9867 of 2009 and
M.P.No.2 of 2009

21.03.2023