



W.P.Nos.24571 & 19993 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HON'BLE MS.JUSTICE V.M.VELUMANI

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.Nos.24571 & 19993 of 2021 and
W.M.P.Nos.21251 & 25854 of 2021

Vasanth Meenakshi
Assistant Executive Engineer
(Previously) Assistant Engineer, Area-XIII
Chennai Metropolitan Water Supply
& Sewerage Board
Velachery, Chennai – 42.

Petitioner in
W.P.No.24571 of 2021

V.Panbarasan
S/o A.Venkatesan
Assistant Executive Engineer
Corporation of Chennai
Chennai.

Petitioner in
W.P.No.19993 of 2021

VS

1. The State Human Rights Commission
of Tamil Nadu
Rep. by its Registrar
No.143, P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai – 600 028.

2. S.Natrajan

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3. Sekarbabu, Inspector of Police
J-7, Velachery Police Station
Velachery, Chennai.
4. Manoharan
Sub-Inspector of Police
J-7, Velachery Police Station
Velachery, Chennai.
5. Ramesh
Sub-Inspector of Police
J-7, Velachery Police Station
Velachery, Chennai.
6. Rajendran, Driver
J-7, Velachery Police Station
Velachery, Chennai.
7. Karuppannan
S.S.I.Police
J-7, Velachery Police Station
Velachery, Chennai.
8. V.Panbarasan
S/o A.Venkatesan
Assistant Executive Engineer
Corporation of Chennai
Velachery, Chennai.
9. The Tamil Nadu Slum Clearance Board
Rep by its Managing Director
No.05, Kamaraj Salai
Chennai – 600 005.

Respondents in
W.P.No.24571 of 2021



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of Tamil Nadu
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Prayer in W.P.No.24571 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of Certiorari, calling for the recrds of the order passed by the first respondent in the proceedings in the SHRC Case No.2295 of 2014 dated 02.07.2021, quash the same insofar as first respondent passing an order of recovery of a sum of Rs.25,000/- from the petitioner herein;

Prayer in W.P.No.19993 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of Certiorari, calling for the records on the file of the first respondent herein vide his proceedings in SHRC No.2295 of 2014 and quash the impugned order dated 02.07.2021 as highly illegal and arbitrary.

For the Petitioner in W.P.No.24571 of 2021 :Mr.C.Vigneswaran

For the Petitioner in W.P.No.19993 of 2021 Ms.Karthikaa Ashok

For the Respondents in W.P.No.24571 of 2021 Ms.P.Prema
for respondent 1

Mr.Vijaya Kumar
for respondents 3 to 7

Mr.G.T.Subramaniam
for respondent 8

Mr.M.Babu Muthu Meeran
Standing Counsel
for respondent 9

For the Respondents in W.P.No.19993 of 2021 Ms.P.Prema
for respondent 1

Mr.Vijaya Kumar
for respondents 3 to 7



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COMMON ORDER
(Made by V. LAKSHMINARAYANAN, J.)

Both these writ petitions challenge the order passed by the State Human Rights Commission in SHRC No.2295 of 2014 dated 02.07.2021. As the order impugned in both the writ petitions are one and the same, they are being disposed of by this common order.

2. The petitioner in W.P.No.19993 of 2021 is working as an Assistant Executive Engineer, Corporation of Chennai. The petitioner in W.P.No.24571 of 2021 is working as an Assistant Executive Engineer, Chennai Metropolitan Water Supply and Sewerage Board, Velachery, Chennai.

3. The case of the complainant is that he is an allottee of a plot by the Tamil Nadu Slum Clearance Board. There were encroachments in his land by his neighbours. The neighbours also indulged in illegal breaking of the road, leading to his house. It is pertinent to point out that the road is not a



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public road, maintained by the Corporation of Chennai. According to the second respondent, the police refused to take action on the complaint given by him that there was dereliction of duty by the petitioners herein for not taking any action on the complaint regarding illegal breaking of the road. Further he alleged, failure to take action on the complaints lodged with the Corporation of Chennai and the Chennai Metropolitan Water and Sewerage Board amounted to violation of his human rights.

4. During the relevant point of time, the petitioners herein were working as Assistant Engineers in the area in which the property of the second respondent was situated. On receipt of the complaint, the respondents filed a reply, stating that the Plot Nos.41 to 44 were allotted to several persons, including the father of the petitioner. Since the road is a private road and the dispute is private in nature, they could not take any action. A perusal of the complaint shows that the specific allegation of the second respondent before the first respondent was that one Lurudhu Subramani, who happen to be his neighbour, broke the concrete layer of the



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road without obtaining permission from the Corporation of Chennai or Chennai Metropolitan Water Supply and Sewerage Board. Since no action was taken by the Corporation Authority, Metro Water Authority or by the Police, complaint has been lodged with the Human Rights forum. Despite the filing of the counter, showing that the property is a private property and the Corporation and Chennai Metropolitan Water Supply and Sewerage Board does not have the jurisdiction over the same, the first respondent has fastened a liability of them, directing recovery of Rs.25,000/- each from the petitioners in both the writ petitions. This order is being impugned before us.

5. We have heard Mr.C.Vigneswaran, learned counsel for the petitioner in W.P.No.24571 of 2021, Ms.Karthikaa Ashok, learned counsel for the petitioner in W.P.No.1993 of 2021, Ms.P.Prema, learned counsel for the respondent 1 in both the writ petitions, Mr.Vijaya Kumar learned counsel for respondents 3 to 7 in both the writ petitions, Mr.G.T.Subramaniam learned counsel for respondent 8 in W.P.No.24571 of



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2021 and Mr.M.Babu Muthu Meeran learned Standing Counsel for respondent 9 in W.P.No.24571 of 2021.

6. We have gone through the complaint, counter and the order passed by the first respondent.

7. We are not in a position to sustain the order of the first respondent. The first respondent has correctly come to a conclusion that the second respondent is trying to resolve a civil dispute with the help of the Police. When the Commission has returned a finding that the dispute before it is a private common pathway, it should have rejected the complaint. If it is a private lane, neither the Corporation of Chennai nor the Chennai Metropolitan Water Supply and Sewerage Board would not have any jurisdiction over the same and the remedy of the second respondent would be only to approach the Civil Court.



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8. The mere fact that the road is a concrete road does not mean that it belongs to the Corporation. Even if the road is assumed to be a road belonging to the Corporation, it is not the petitioners who have dug up the road and caused disturbance to the peaceful enjoyments of the second respondent. Without giving such a finding that the property is vested with the Corporation, the Commission straight away jumped into the conclusion that the Assistant Executive Engineers ought to have safeguarded the public property.

9. Safeguarding of public property is different from interfering with the dispute, which is essentially private in nature. The Commission has not found that the property is a public property and the respondents have failed to protect it. It has extracted a truncated portion of the evidence and has come to the conclusion that the writ petitioners have not protected a public road. As we have already premised from the beginning, the issue is not whether the road is a public road or not, but, one relating to violation of human rights.



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10. We have to hold that, even if it is a public road and if there is dereliction of duty, the State Human Rights Commission does not have the jurisdiction. Here is a case where the two private parties are fighting, over alleged nuisance created by one private party. In order to find a solution, the aggrieved party has lodged a complaint with the Human Rights Commission. The Human Rights Commission is not vested with the powers similar to Section 133 of the Criminal Procedure Code. The Commission has got no powers to deal with this issue.

11. For an alleged illegal act by one person against another within their area of operation, but outside their jurisdiction, the writ petitioners cannot be held responsible. The first respondent has to be satisfied if there are any acts resulting in violation of Human Rights as defined under the provisions of the Protection of Human Rights Act of 1993. We are unable to find any such evidences. The order of the Commission is based on assumptions, presumptions and it has assumed jurisdiction without



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jurisdictional basis and foundational facts. The order is perverse and deserves to be interfered with under Article 226 of the Constitution of India.

12. We accordingly interfere with the order and the writ petitions are allowed. The order in SHRC No.2295 of 2014 dated 02.07.2021 is set aside. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(VMV, J.) (VLN, J.)
30.03.2023

Index : Yes/No
Neutral Citation: Yes/No

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V.M.VELUMANI, J,
and
V. LAKSHMINARAYANAN, J
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