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W.P.No.13280 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.13280 of 2015
and M.P.Nos.1 and 2 of 2015

The Ashok Leyland Employees
Cooperative Industrial Housing Society Limited
(No.JJ289)
Rep. by its President,
No.101,
Sir A.Ramasamy Mudhaliar Nagar,
Thiruvotriyur, Chennai 19.

... Petitioner

-Vs-

1. Chennai Metropolitan Water
Supply and Sewerage Board,
Rep by its Managing Director,
Chindadripet, Chennai - 2.
2. The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Building, Chennai.
3. The Chief Engineer Area I,
Chennai Metropolitan Water Supply
and Sewerage Board,
Chindadripet, Chennai - 2.



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4. The Executive Engineer Area I,
Chennai Metropolitan Water Supply
and Sewerage Board,
Chindadripet, Chennai 2.

5. The Executive Engineer Area I,
Chennai Metropolitan Water Supply
and Sewerage Board,
Chindadripet, Chennai 2.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the underground water and sewerage pipe line laid through the private property in Plot No.149, Survey No.618A, to an extent of 2.72 acres of approved MMDA layout No.9/77 at Sir. A.Ramasamy Mudaliar Nagar, Thiruvotriyur, belonging to the petitioner's Society and restore the Plot in original position.

For Petitioner	: Mr.S.N.Ravichandran
For R1, R3	
R4 and R5	: Mrs.K.Vasanthamala
	Standing Counsel
For R2	: Mr.S.Gopinathan
	Standing Counsel

ORDER

This writ petition has been filed for direction directing the respondents to remove the underground water and sewerage pipe line laid through the private property in Plot No.149, Survey No.618A, to an extent of 2.72 acres of approved MMDA layout No.9/77 at Sir.



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A.Ramasamy Mudaliar Nagar, Thiruvotriyur, belonging to the petitioner's Society and restore the Plot in original position.

2. Heard both sides and perused the materials available on record.

3. It is seen that for the very same prayer, the petitioner had already filed a suit in O.S.No.199 of 2014, on the file of the District Munsif Court, Thiruvotriyur and it is pending for trial. Having been failed to obtain any interim order in the Civil Court, the petitioner had filed this writ petition. That apart, as per the stand of the respondent, the water and sewage pipeline in the subject property was laid long back even before purchase of the said property by the petitioner and now, it is maintained by the Corporation/second respondent. That apart, it is a mixed question of facts and it cannot be decided in this writ petition that too under Article 226 of Constitution of India. In fact, already this issue has been seized by the Civil Court and as such, the writ petition is not maintainable and liable to be dismissed.



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4. However, the District Munsif Court, Thiruvotriyur is directed to dispose of the suit in O.S.No.199 of 2014 within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

12.09.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
mn



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To

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3. The Chief Engineer Area I,
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and Sewerage Board,
Chindadripet, Chennai 2.

Copy to

The District Munsif Court, Thiruvotriyur.



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G.K.ILANTHIRAIYAN. J.

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