



WEB COPY



W.P.No.26253 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

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

W.P.No.26253 of 2021

M.Ilakkiya

...Petitioner

-Vs-

1. The Secretary,
Municipal Administration,
Urban and Water Supply Department,
St. George Fort,
Chennai – 9.

2. The District Collector,
Thirupathur,
Thirupathur District.

3. The Commissioner,
Municipal Office,
Vaniyampadi,
Thirupathur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay a compensation for a sum of Rs.10,00,000/- (Rupees ten lakhs) along with 12% interest to the petitioner for the date of death towards the loss of the life of the petitioner only son.



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For Petitioner : Mr.R.Jaikumar
For Respondents : Mr.V.Manoharan
For R1 & R2 : Mr.V.Manoharan
Additional Government Pleader
For R3 : Mrs.V.Yamunadevi
Special Government Pleader

ORDER

This writ petition has been filed for direction directing the respondents to pay compensation of Rs.10,00,000/- with interest for the death of the petitioner's son.

2. The petitioner's son aged about seven years fell into the pit which was dug by the second respondent to repair the pipe line leakage and left away without closing the pit. Due to heavy rain, it was filled up with rain water and while the petitioner's son playing near the pit and went into the water stagnated area to collect the balloon and he fell down and drowned into water. On the complaint, FIR was registered on the file of the Inspector of Police, Vaniyambadi Town Police Station, Vellore District, in Crime No.1585 of 2020 under Section 174 of Cr.P.C. Therefore, the petitioner submitted representation seeking compensation of Rs.10,00,000/- before the respondents. Since the same was not considered, the petitioner filed the present writ petition.



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3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. On perusal of the counter filed by the third respondent revealed that on 30.05.2020, there was a leakage in the pipe line situated near the overhead tank and inside the campus of the third respondent office building. Therefore, the staff of the third respondent while attending the pipe line work by digging up a pit, there was a heavy rain, due to which they could not complete the work and the pit was filled up with rain water due to heavy rain. It was happened on Saturday and the next day Sunday being a holiday, no one had attended the work. Outside the third respondent office, the petitioner's son was playing with other children. While playing outside, the balloon went inside the third respondent office near the pit. The deceased boy went inside the office of the third respondent to collect the balloon and fell into the pit. Unfortunately, he drowned and died.

5. Admittedly it was Sunday and office of the third respondent remained close and no employee was working on that day. That apart due to heavy rain the pit which was dug by the employee of the third



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respondent was kept open to attend the pipe line work, since the work was stopped due to heavy rain. Subsequently, the pit was filled with rain water. When the petitioner's son went inside of the third respondent office to collect the balloon by opening the gate, he fell down into the pit. Therefore, no one liable is for the death of the petitioner's son since, there is no question of negligence on the part of the respondents on the death of the petitioner's son. Further the FIR also registered under Section 174 of Cr.P.C., and not against the third respondent. Therefore, the compensation sought for by the petitioner cannot be granted and the writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

23.10.2024

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

rts



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G.K.ILANTHIRAIYAN. J.

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