



W.P. No. 33308 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 33308 of 2023

and

W.M.P. Nos. 33049 and 33051 of 2023

Green Garden Owner's Welfare Association,
Rep. By its Secretary,
Karpagkani
Flat No.4, Plot No.47,
Annai Avenue, Thiruvalluvar Street,
Om Shakthi Nagar, Kallikuppam,
Ambattur, Chennai 600 053.

... Petitioner

-VS-

1. The Chairman and Managing Director,
Chennai Metropolitan Water Supply & Sewage Board (CMWSSB),
No.1, Pumping Station Road,
Chindadripet,
Chennai 600 002.
2. The Deputy Area Engineer – VII
Chennai Metropolitan Water Supply & Sewage Board,
No.1, School Road,
T.S. Krishna Nagar Main Road,
Mogappair,
Chennai 600 101.
3. The Area Engineer - VII,
Chennai Metropolitan Water Supply & Sewage Board,
Depot 82,
Pilliar Koil Street, Library Room,
Kallikuppam, Ambattur,
Chennai 600 053.



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4. Ms. Vyas Builders (P) Ltd.,
Rep. By its Director,
No.18/19, Venkatamaistri Street, 1st Floor,
Chennai 600 001.

5. M/s.Loyal Housing Development Pvt. Ltd.,
Rep. By Director,
Plot No.1402, H-Block,
15th Main Road,
Anna Nagar, Chennai 600 040,
Also Having an address at
New No.44, 1st Cross Street,
Kennedy Square,
Sembium, Chennai 600 011.

6. The Greater Chennai Corporation,
No.5, Anderson Road, Rippon Building,
Chennai 23.

7. Tamil Nadu Real Estate Regulatory Authority (TNRERA),
No.1A, 1st Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai 600 008.

... Respondents

*(R6 and R7 are impleaded as per order dated
13.12.2023 in W.M.P.No.33972/2023 in W.P.No.33308/2023)*

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the First Respondent and quashing the impugned show cause notice dated 14.11.2023 vide Lr.No.CMWSSB/Area 7/W.P.10102/2021/Show Cause notice/2023 received on 16.11.2023 issued by the First Respondent making false and vexatious demand of Rs.44,43,308/- from the Petitioner towards the Door Nos.1 to 13, 13 to 47 Annai Avenue, Thiruvalluvar Street, Om Sakthi Nagar, Kallikuppam, Ambattur, Chennai 600 053, as the same is ultra virus, unconstitutional, perverse, arbitrary, biased, illegal and against all



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principles of law and natural justice and further direct the Respondents to consider the Petitioners Association representation dated 30.12.2020 and provide the proper breakup of the amounts if any to be paid by such blocks by providing an opportunity of hearing, site inspection and perusal of records and consequently forbearing the Respondents, their men, agents, servants and subordinates from taking any coercive steps by disconnecting the Water and Sewerage connections or in any other manner proceeding against the Petitioners Association property detailed above pursuant to the impugned show cause notice dated 14.11.2023 vide Lr.No.CMWSSB/Area 7/W.P.10102/2021/Show Cause notice/2023 received on 16.11.2023 issued or otherwise.

For Petitioner : Mrs. P.R.Umamaheswari

For Respondents : Mr. J.Ravindran (for R1 to R3)
Additional Advocate General
Assisted by Mrs.K.Vasantha Mala

Mr. E.C.Ramesh (for R6)

Ms. R.Varalakshmi (for R7)

ORDER

Heard Mrs. P.R.Umamaheswari, Learned Counsel for the Petitioner, Mr. J.Ravindran, Learned Additional Advocate General, appearing for the First to Third Respondents, Mr.E.C.Ramesh, Learned Counsel for the Sixth Respondent and Ms. R.Varalakshmi, Learned Counsel for the Seventh



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Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Having regard to the nature of order proposed to be passed in the Writ Petition, which would not cause any prejudice to the Fifth and Sixth Respondents, notice to them is dispensed with.

3. The Petitioner is an association of 120 individual flat owners in various blocks in the residential lay-out named as Loyal Housing Green Garden located at Plot Nos. 1 to 47 at Annai Avenue, Thiruvalluvar Street, Om Sakthi Nagar, Kallikuppam, Ambattur, Chennai – 600053, which had been developed by the Fourth and Fifth Respondents.

4. In furtherance to the order dated 07.03.2022 in the earlier Writ Petition in W.P. No. 10102 of 2021 filed by the Petitioner, a show cause notice in Letter No. CMWSSB/Area-7/WP.10102/2021/Show Cause Notice/2023 dated 14.11.2023 has been sent by the First Respondent to the Petitioner to pay the outstanding dues of Rs. 43,44,308/- towards water connection charges for 82 flats, sewerage connection charges for 102 flats and infrastructure development charges for 82 flats, which is assailed in this Writ Petition.



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5. In order to amicably resolve the controversy, the Petitioner through its Secretary, viz., Karpagkani, has filed an affidavit dated 22.03.2024, which reads as follows:-

2. I state that the Petitioner submitted a letter dated 15.03.2024 to the First to Third Respondents to give the break up of the payment to be made as against each flat to enable them to make the payment. The First Respondent through their office have by a letter dated 18.03.2024 in Lr. No. CMWSSB/Area-7/Green Garden Apartment/Pending Payment Dues/Assessment wise List/2024 given the amounts that is due and payable by each of the flat owner towards the Water, Sewer connection and infrastructure development charges. Without prejudice to the Petitioner's right to recover the said amounts from the Fourth and Fifth Respondents, the Flat owners shall pay to the said amounts mentioned as against their respective flat members. I state that the Petitioner association comprises of 120 flat owners. Hence, I pray that the flat owners be granted time of 2 months to comply with the payment of charges provided under the letter dated



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18.03.2024 in Lr. No. CMWSSB/Area-7/Green Garden Apartment/Pending Payment Dues/Assessment wise List/2024.

3. I state that in the letter dated 18.03.2024 in 18.03.2024 in CMWSSB/Area-7/Green Garden Apartment/Pending Payment Dues/Assessment wise List/2024 some of the CMC numbers are mentioned wrongly, however, the Flat owners shall pay the amount as indicated against the flat and this Petitioner requests the Respondents to issue the receipts by incorporating the correct CMC numbers.

4. I request and pray that this Court may allow the Writ Petition as prayed for and grant two months time for the respective Flat owners to make the payment as mentioned in the letter dated 18.03.2024 in Lr. No. CMWSSB/Area-7/Green Garden Apartment/Pending Payment Dues/Assessment wise List/2024 issued by the office of the First Respondent and pass such further or other orders as this Court may be deem fit and proper in the circumstances of the case and thus render justice.



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6. Having due regard to the said undertaking made by the Petitioner, the following order is passed:-

- (i) it shall be incumbent upon the Petitioner and its members to carry out their obligation to pay the entire dues as demanded by the First Respondent in the impugned notice by 31.05.2024, without prejudice to their rights to seek reimbursement of the same from the Fourth and Fifth Respondents in the manner recognized by law;
- (ii) in the event of failure of the Petitioner to fulfill the said undertaking by within that period, the First Respondent is not precluded from taking action thereafter to recover the dues from the Petitioner and its members in furtherance to the impugned notice in accordance with law;
- (iii) the First to Third Respondents shall verify the CMC numbers of the respective flat owners and shall take immediate steps to correct any errors; and
- (iv) the Petitioner in co-ordination with the First to Third Respondents shall ensure that a proper mechanism is devised for carrying out the periodical recovery of water and sewerage taxes and charges from the individual members of the Petitioner within the due dates in future.



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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, connected Miscellaneous Petitions are closed. No costs.

22.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 28.05.2024.

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To

1. The Chairman and Managing Director,
Chennai Metropolitan Water Supply & Sewage Board (CMWSSB),
No.1, Pumping Station Road,
Chindadripet,
Chennai 600 002.
2. The Deputy Area Engineer – VII
Chennai Metropolitan Water Supply & Sewage Board,
No.1, School Road,
T.S. Krishna Nagar Main Road,
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Chennai 600 101.
3. The Area Engineer - VII,
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Depot 82,
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4. The Greater Chennai Corporation,
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P.D. AUDIKESAVALU, J.

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22.03.2024