



WEB COPY



W.P. No. 35353 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

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

**W.P. No. 35353 of 2023
and
W.M.P. No. 36235 of 2023**

H. Velu

... Petitioner

-VS-

1. The Managing Director,
CMWSSB,
Pumping Station Road,
Chennai 2.
2. The Superintending Engineer,
CMWSSB,
Pumping Station Road,
Chennai 2.
3. The Assistant Engineer,
CMWSSB,
Area-7, Ward-88,
Park Road, Anna Nagar West,
Chennai 101.
4. K.Vijayan
(R4 is impleaded as per order dated 22.12.2023
in W.M.P. No. 36235 of 2023)

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents herein to provide Metro Water Connection to the Petitioner's house at No.33/32, Mahalakshmi Street, Kalaivanar Nagar, Padi, Chennai 600 050, pursuant to his



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representation dated 02.08.2023.

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For Petitioner : Mr. A.R.Suresh

For Respondents : Ms. K.Vasanthamala

ORDER

Heard Mr. A.R.Suresh, Learned Counsel for the Petitioner and Ms. K.Vasanthamala, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that he had sought connection for water supply for his house situated at Plot No. 32A, Mahalakshmi Street, Kalaivanar Nagar, Padi, Chennai – 600050 (hereinafter referred to as 'the property' for short), from the Respondents, and as his representation dated 02.08.2023 did not evoke any response, it has necessitated the filing of this Writ Petition.

3. The Respondents have filed Counter-Affidavit dated 24.01.2024 explaining that the Fourth Respondent, who is the neighbour of the Petitioner in respect of the said property, had raised objections that the Petitioner had encroached into his property and that a civil suit in O.S. No. 17 of 2019 is



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pending before the District Munsif Court, Ambattur, regarding the ownership of the disputed portion for which the connection for water supply has been sought and that the Petitioner would have to await its outcome, depending upon which the further course of action would be taken in the matter.

4. It is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in *Roshina T. -vs- Abdul Azeez K.T.* [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the said remedy and there is no acceptable explanation from the Petitioner for not having availed it. It would obviously follow that it is only in the event that the Petitioner first establishes his title to the property claimed against the Fourth Respondent before the civil court that he could seek connection for water supply to the disputed portion of the property from the First to Third Respondents. In that view of the matter, this Court is not inclined



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to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations.

Consequently, connected Miscellaneous Petition is closed. No costs.

19.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

gsa/maya

To

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Chennai 2.
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P.D. AUDIKESAVALU, J.

gsa/maya

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