



WP.No.10968 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 02.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.10968 of 2017

and

WMP.No.11937 of 2017

Lithiya Pramila

... Petitioner

Vs.

1. The Principal Secretary
Department of Municipalities & Water Supply,
Secretariat, Chennai-600 009.
2. The Managing Director of Municipalities
Chepauk, Chennai-600 005.
3. The Commissioner,
Corporation of Chennai, Chennai-600 003.
4. The Assistant Commissioner (Health),
Corporation of Chennai, Chennai-600 003.
5. The Assistant Divisional Commissioner (North)
Basin Bridge Road, Royapuram, Chennai-600 021.
6. The Superintendent Engineer,
Corporation of Chennai, Chennai-600 003.
7. The Zonal Officer (Zone-III)
Corporation of Chennai,
Madhavaram, Chennai- 600 060.

... Respondents



WP.No.10968 of 2017

Prayer: Writ Petition filed under Article 226 of Constitution of India pleaded to issue a Writ of Certiorari, calling for the records relating to the proceedings of the seventh respondent dated 28.03.2017 and quash the same.

For Petitioner : Mr.B.Ezhil Caroline

For Respondents : Dr.T.Seenivasan,
Special Government Pleading
for R1 and R2
: Mr.G.T.Subramaniam
for R3 to R7

ORDER

The petitioner seeks writ of certiorari, challenging the order passed by the seventh respondent dated 28.03.2017.

2. Heard Ms.E.Ezhil Caroline for the petitioner, Dr.T.Seenivasan, for respondents 1 and 2 and Mr.G.T.Subramanian, learned counsel for respondents 3 to 7.

3. The undisputed facts are the petitioner is owner of the property situated in S.No.451/33 bearing Door.No.67, NSK Street, Puzhal Chennai-66. She had purchased the property on 03.08.2006 by way of registered document.



WP.No.10968 of 2017

WEB COPY

4. The petitioner had put up a construction, after getting approval from the Town Planning Authorities. The property, apart from the building consists of a Well and a Septic Tank.

5. The petitioner's house is not connected to a Sewage Drainage System. Hence, the petitioner was constrained to utilize a septic tank for the said purpose. As and when the septic tank was filled to its capacity, the petitioner states that she would approach the seventh respondent for the purpose of clearing the same.

6. In and about 2016, the petitioner had approached the seventh respondent, yet again, seeking clearance of the septic tank. The seventh respondent is said to have informed her that no workmen are available with them to do the job and that she is free to engage a private concern to evacuate the waste so collected. Accordingly, the petitioner engaged the services of one Ms.Poongothai having her residence at 1/43, Bajanai Koil Street, Vadakarai, Red Hills, Chennai-52.



WP.No.10968 of 2017

7. The said Poongothai was in possession of a Septic Tank Cleaning vehicle which had valid insurance till September 2017. The petitioner engaged the said Poongothai in March 2015 and called upon her to empty the septic tank. The said Poongothai appointed one Mr.Babu to go over to the premises and clear the same.

8. On the date, when clearing was to take place, the petitioner and her husband left the house to attend Women Fellowship Prayer Meeting at their Church. The said Babu commenced the operation for clearance. Unfortunately, he fell into the tank and breathed his last. The petitioner came to know about the same when she returned home, after her prayers were over. By that time, Babu had gone to meet his maker.

9. The allegation of the petitioner is that she never engaged Poongothai for manual cleaning and it was Babu who had on his own entered into the Septic Tank for clearance. This, despite the fact, a vehicle had been sent for the said purpose. . Taking cognizance of the death, a first information report was filed by the Station House Officer of Puzhal Police Station on 29.03.2016.



WP.No.10968 of 2017

10. On the account of death, the wife of the said Babu made a claim with the respondents 2 to 7 to compensate her for the death of her husband. The Corporation Authorities relying upon Government Order 109 Municipal Administration and Water Supply (MC3) Department dated 09.03.2017 paid a sum of Rs.10,00,000/- to the dependants of Mr.Babu.

11. This Government Order came to be passed pursuant to the orders of the Hon'ble Supreme court in WP(Civil).No.583 of 2023 dated 27.03.2014. In the said order, the Supreme Court had directed that the compensation of Rs.10,00,000/- should be paid to the family members, of those who had died, due to manual scavenging. In compliance with the aforesaid judgment of Supreme Court, the Government undertook to discharge the liability of payment of Rs.10,00,000/- to the family of the deceased. The order left it open to the concerned local body to recover the amount so paid, from the owners of the premises, if they have the capacity to pay the compensation to the concerned local body.

12. Invoking the said GO, the seventh respondent issued a notice to the petitioner's husband calling upon him to reimburse the payment of

5/12



WP.No.10968 of 2017

Rs.10,00,000/- The petitioner's husband issued a response stating that he is not the owner of the property. He also stated the following:

1) The Septic Tank contains only running water and Babu had been watching the flow of running water and had peeped into the pit and fell in to it accidentally and passed away;

2) The Tank was only $\frac{1}{2}$ full with household waste drainage and there is no possibility of formation of any poisonous gas.

3) Babu had brought a Tanker for draining the waste, instead felling into it. The explanation indirectly suggesting that Babu had been a party to his own death.

13. Another stand was taken during the correspondences. Mr.Elumalai gave a Letter on 24.05.2016. In this, he stated that he had no connection with the deceased Babu and had never permitted him to work at the septic Tank. On 12.05.2016, the said Elumalai gave another response reiterating the earlier contentions and explained it was only on his return from the Women Fellow Ship Prayer Meeting, he came to know that some one had seen the over flow of the drain water in the street and had informed Mr.Babu. Mr.Babu, had in turn engaged a Sewage Tanker lorry and while inspecting as to why more than $\frac{1}{2}$ of the tank was not



WP.No.10968 of 2017

empty, fell into the same sustained injuries and became unconscious on account of the injuries. He denied the allegation that manual cleaning and scavenging had taken place in his house. He stated that the criminal case had been lodged by the police only on account of '*upsurge*' caused by the publication of the death. He reiterated the contention that as Babu was not the manual scavenger engaged by him and he is not liable to for the same.

14. After the reply had been given, the Corporation, in terms of aforesaid Government order, made the payment of Rs.10,00,000/- to Mrs.Selvi, the wife of the deceased Babu. It called upon the petitioner to reimburse the said amount. Challenging the same, the present Writ Petition is filed.

15. The facts been having been extracted in detail above, I am to point out the following contradictions in the case taken by the petitioner. Initially, a stand was taken that she never engaged Babu nor did know about his existence. The presence of Babu was sought to be explained that as the drain water had run into the street, some unnamed persons had informed Babu about the same. He rushed to the premises and had fallen in to the same on his own. The contradictory stand taken by the petitioner

7/12



WP.No.10968 of 2017

is seen from Paragraph No.6 of the affidavit. In this paragraph, the petitioner states that she had engaged the services of one Poongothai, who had, in turn engaged the deceased Babu. Surprisingly, the insurance particulars of Ms.Poongothai's vehicle have been produced by the petitioner in the typed set of papers. If there was no connection between the petitioner and Babu or between the petitioner and Poongothai as to how the petitioner came across the insurance details of Poongothai is beyond one comprehension. This shows that the petitioner has not taken clear stand, but has been varying her stance through herself or through her husband at different times.

16. The point remains that the said Babu is dead. The 3rd respondent has made the payment for his death on the basis of the orders of the Supreme Court in WP(Civil)No.583 of 2003 dated 27.03.2014. Para No.8 of the Government Order reads as follows:

" The Government after careful examination have decided to comply with the orders of Supreme Court of India in W.P.(c).No.583 of 2003, dated 27.03.2014 and to permit the Commissioner of Municipal Administration and the Commissioner, Greater Chennai Corporation to sanction the



WP.No.10968 of 2017

compensation amount from the General Funds of the respective Urban Local Body to the dependants of each septic tank death victim in private premises by following due procedure including verification of legal heirship and proper documentation and procedure including verification of legal heirship and proper documentation and also to recover the amount from the owner of the premises who have capacity to pay the compensation by the concerned Urban Local Bodies and orders accordingly".

17. The petitioner has not challenged the validity of the aforesaid Government Order. What is in challenge is the consequential order passed by the seventh respondent in implementing the order passed by the Government. The Government has taken a stand that it will provide immediate relief to the family of the deceased and thereafter recover the same from the person, who is the owner of the property, in which the death has occurred. This ensures that there is no unfair liability of the Government and at the same time, there is no unjust enrichment for the person responsible for engaging such manual workers. If the Government were to engage a litigation with the family of the deceased who come



WP.No.10968 of 2017

from the lowest strata of the society, the possibilities of the family seen the colour of the coin would itself be impossible in many cases. It is benevolent Government Order issued by the Government which requires to be read as such.

18. The petitioner states that she was away in the Prayer Meeting and therefore, indirectly suggesting she is not responsible for the death. As the owner of the building, she has to be made answerable to any tortious act that takes place in her premises. As the 7th respondent has merely implemented the Government order, I do not find any reason to interfere with the same, especially in the light of the varying stands, taken by the writ petitioner.

19. Accordingly, Writ Petition stands dismissed. The petitioner shall pay the amount under the impugned order. On such payment, it is open to the petitioner to make such claims as open to her under law against the employee of Babu, namely, Ms Poongothai and also from the insurance company which had insured the owner against any damages. No costs. Consequently, the connected miscellaneous petitions are closed.

02.12.2025

Vv

10/12



WP.No.10968 of 2017

WEB COPY

To

1. The Principal Secretary
Department of Municipalities & Water Supply,
Secretariat, Chennai-600 009.
2. The Managing Director of Municipalities
Chepauk, Chennai-600 005.
3. The Commissioner,
Corporation of Chennai, Chennai-600 003.
4. The Assistant Commissioner (Health),
Corporation of Chennai, Chennai-600 003.
5. The Assistant Divisional Commissioner (North)
Basin Bridge Road, Royapuram, Chennai-600 021.
6. The Superintendent Engineer,
Corporation of Chennai, Chennai-600 003.
7. The Zonal Officer (Zone-III)
Corporation of Chennai,
Madhavaram, Chennai- 600 060.



WEB COPY



WP.No.10968 of 2017

V. LAKSHMINARAYANAN,J.

Vv

W.P.No.10968 of 2017
and
WMP.No.11937 of 2017

02.12.2025