

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6875/2015 & MP.No.1/2015

Ashoka Silk Emporium rep.by
its Proprietrix Madhu Soni

.. Petitioner

Versus

1.The Area Engineer
Chennai Metro Water Supply &
Sewerage Board, Area-V, No.1, MC Road
Anna Poonga, Chennai 600 021.

2.The Special Tahsildar
Chennai Metro Water Supply &
Sewerage Board, Area-V,
No.1, MC Road, Anna Poonga
Chennai 600 021.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records of the 2nd respondent in respect of the impugned demand notice under section 7 dated 07.03.2015 and quash the same.

For Petitioner : Mr.S.S.Swaminathan

For Respondents: Mr.M.Jothikumar

सत्यमेव जयते ORDER

Heard Mr.S.S.Swaminathan, learned counsel appearing for the petitioner ; and Mr.M.Jothikumar, learned counsel accepting notice for the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner has challenged the impugned Demand Notice dated 07.03.2015 issued u/s.7 of the Tamil Nadu Water Supply and Drainage Board Act, demanding a sum of Rs.55,650/- as arrears of water tax and charges for a period of ten years together with interest at Rs.39,662/-.

3.The petitioner would state that the impugned Demand is illegal and contrary to the Decree passed in OS.No.5900/2007 dated 29.04.2009 on the file of the City Civil Court, Chennai. The petitioner is in occupation of the premises and carrying on business in textiles. The petitioner would state that the respondent/Board has no jurisdiction to issue the Demand Notice as there is no water or sewerage connection to the premises. In fact, when a notice was issued by the respondent/Board on 31.08.2007 u/s.62[2] of the Chennai Metro Water Supply and Sewerage Act, 1978, the petitioner filed a suit in OS.No.5900/2007 to declare the notice as invalid and not enforceable. The Civil Court after hearing the petitioner and the Respondent/Board, passed a decree on 29.04.2009, by which the notice dated 31.08.2007 issued u/s.62[2] of the Act, was declared as invalid and not enforceable. Further, a direction was issued to the respondent/Board to visit the suit property, issue notice to the petitioner and invite their replies, then assess the tax and charges, payable and proceed in accordance with the Act. Till such assessment proceedings is completed, there is a decree of permanent injunction operating against the respondent/Board and they were restrained from taking coercive proceedings like distraint of the movables etc. The present demand has been issued without complying with the direction issued by the Civil Court in the decree in OS.No.5900/2007 dated 29.04.2009. Therefore, the contentions raised by the petitioner is tenable and the impugned demand has to be necessarily held to be contrary to the decree passed by the Civil Court which is binding on the respondent/Board.

4.In the result, the writ petition is allowed and the impugned Demand Notice dated 07.03.2015 issued by the respondent/Board is quashed. The respondent/Board is directed to scrupulously follow the direction issued by the Civil Court in OS.No.5900/2007 dated 29.04.2009 and issue notice to the petitioner and proceed in accordance with the direction issued by the civil court. The above said direction shall be complied with by the respondent/Board within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

AP

To

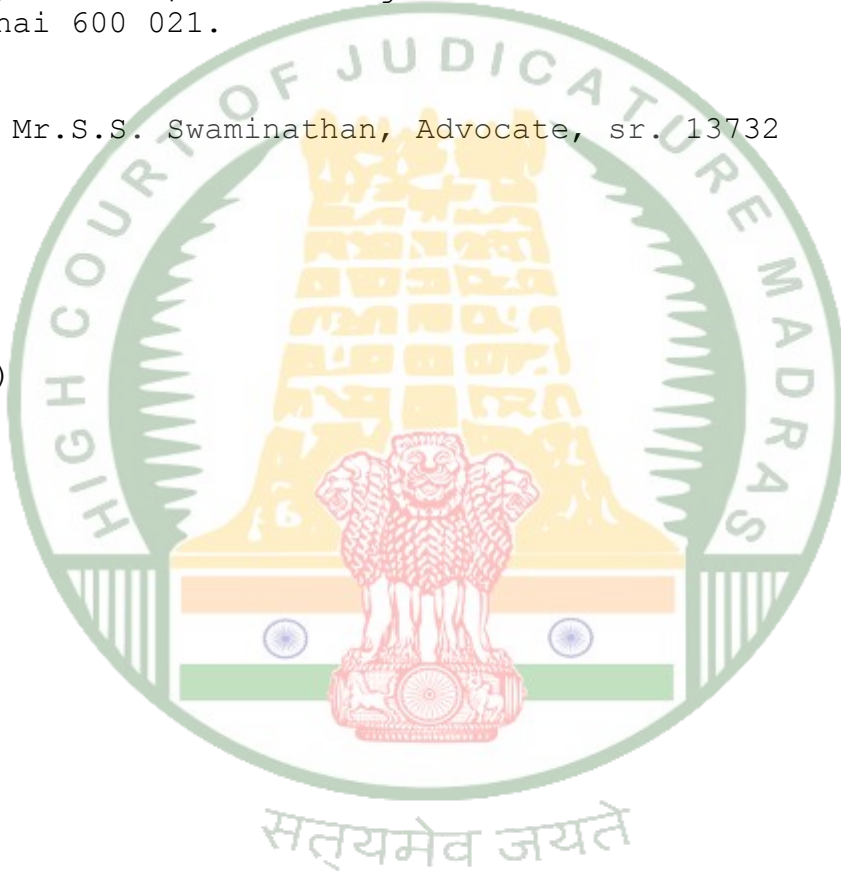
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1 cc to Mr.S.S. Swaminathan, Advocate, sr.13732

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