



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2015

CORAM

THE HONOURBLE MR.JUSTICE B.RAJENDRAN

W.P(MD) .No.526 of 2015

S.Balamurugan

... Petitioner

Vs.

The Assistant Commissioner/Deputy Collector,
Madurai City Municipal Corporation,
Aringar Anna Maligai, Madurai-20.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records pertaining to the order passed by the respondent in Na.Ka.Ma1/18164/2014 dated 26.12.2014 and quash the same as arbitrary and illegal.

For petitioner : Mr.N.Ananthapadmanabhan

For Respondent : Mr.R.Murali

Standing Counsel

ORDER

The Writ Petition has been filed challenging the order passed by the respondent in Na.Ka.Ma1/18164/2014, dated 26.12.2014 and quash the same as arbitrary and illegal.

2.The grievance of the petitioner is that the authorities themselves are not clear in arriving at the calculation amount to be paid by the petitioner. In the first notice dated 19.09.2014, they demanded a sum of Rs.1,01,250/-. When he was not in Country, his son was directed to pay that amount. He sought time. Thereafter, when the petitioner approached the authority concerned on 26.12.2014, they directed him to pay a sum of Rs.2,25,000/- without any basis, which was objected by him. On the objection made, the authorities along with their employees came to the residence of the petitioner and tried to close the drainage facility of the petitioner's house. At that time, they demanded a sum of Rs.1,83,000/- and in fact, they coerced the petitioner to give a cheque. Apprehending danger that drainage facilities will be disconnected, he issued a cheque for that amount. Thereafter, he had given 'stop payment' instruction to his Banker.

3.Now, the petitioner questions the impugned order dated 26.12.2014 on the first ground that the authority has passed the same without any basis. Secondly, no notice was issued calling for the amount. Thirdly, as per the original approval, building has been correctly constructed and therefore, the earlier notice and the present notice are illegal.



4.The act of the respondent would clearly indicate that all is not well, in demanding further payment. Therefore, the petitioner has come forward with the present writ petition for quashing of the impugned notice.

5.Even in the admission stage, the learned counsel for the respondent fairly submitted that there is some calculation details, which has to be taken note of by the respondent and only because of that, there has been a difference.

6.Be that as it may, the respondent will issue fresh notice informing what is the amount due and payable by the petitioner and then direct the petitioner to pay the amount.

7.In view of the above, considering the fact that the authorities have directed the petitioner to pay the different amounts in three different occasions, the impugned order *per se* is not correct.

8.Hence, this Court is inclined to set aside the impugned order, dated 26.12.2014, passed by the respondent only on the ground that the petitioner has not been given prior notice, whereas, they demanded three different amounts on three different occasions. Accordingly, the impugned order is set aside with liberty to the respondent Authority to issue fresh notice to the petitioner, assess the correct amount and pass appropriate orders in accordance with law.

9.At this juncture, the learned counsel for the petitioner submitted that in order to show his bonafide, the petitioner is prepared to deposit 25% of the amount demanded by the respondent. Hence, the petitioner is directed to deposit 25% of the amount demanded in the impugned notice within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected M.P.(MD).Nos.1 & 2 of 2015 are closed. No costs.

Sd/-

Assistant Registrar (Per Admn)

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner/Deputy Collector,
Madurai City Municipal Corporation,
Aringar Anna Maligai, Madurai-20.

+1cc to MR.R.MURALI, ADVOCATE IN SR : 2373

Vs

SR : 17.02.2015 : 2p/3c

W.P (MD) .No.526 of 2015
19.01.2015