

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 8950 OF 2008

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Between:

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Lodge Viswa Bhavan. ...Petitioner

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And

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The Greater Visakhapatnam Municipal Corporation,
Rep. by its Commissioner, Asilmetta Junction,
Visakhapatnam.

... Respondent

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Date of Judgment pronounced: 22.07.2015

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Submitted for Approval:

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The Hon'ble Sri Justice A.Rajasheker Reddy

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1. Whether Reporters of Local newspapers
May be allowed to see the Judgments? Yes/No

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2. Whether the copies of judgment may be
Marked to Law Reporters/Journals Yes/No

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3. Whether His Lordship wish to see the fair
Copy of the Judgment? Yes/No

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 8950 OF 2008

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ORDER :

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This writ petition is filed aggrieved by the impugned water consumption bills issued by the respondent Corporation i.e., 1) bill No.00029, 2) bill No.000032, 3) bill No.000031 and 4) bill No.000030 dated 27.03.2008 in the 'Semi Bulk Commercial' category.

2. It is the case of the petitioner that petitioner lodge has $\frac{3}{4}$ " diameter water pipe connections falls in the category of "Slab Rate". In the year 1991, the respondent had issued similar bills by categorizing the water connections of the petitioner lodge under "Semi Bulk' category. However, after consider the representations of the petitioner lodge, the said connections were confirmed by the respondent in $\frac{3}{4}$ " connection and deleted from the 'Semi bulk category'. In the year 2002, the respondent vide bill dated 01.04.2002 demanded Rs.1,000/- slab, by treating the connection as 'semi bulk'. Aggrieved by the same, the petitioner filed OS No.1506/2002 before the II Addl. Junior Civil Judge, Visakhapatnam and the said Court passed decree on 10.07.2003 declaring the said bill dated 01.04.2002 as illegal and further granted perpetual injunction restraining the respondent and their men from collecting Water charges @ Rs.1,000/- for the period from 1998-99 to 2001-2002 by enforcing the said bill dated 01.04.2002 and that the said decree of the Court below was final. It is also stated that the Visakhapatnam Hotel Merchant Association had also filed OS No.411/99 aggrieved by the action of the respondent demanding Rs.1,000/- slab rate per month by treating similar connections as 'Semi bulk' . After adjudication, the learned Rent Controller-cum-4th Addl. Junior Civil Judge, Visakhapatnam on 24.06.2004 declared that the bills issued to the members of the plaintiff association dated 19.09.1998 as illegal and arbitrary and also granted consequential relief of injunction in respect of bills dated 19.09.1998 and that they have been paying monthly water bills under 'slab rates' till 2002. It is also the case of the petitioner that when they sent the bill amount through Cheque dated 17.06.2002, but the said Cheque was returned on 22.06.2002 with an endorsement 'returned along with cheque No.756314, dated 17.06.2002, duly informing that the ViswabHAVAN Lodge comes under commercial category and the petitioner had paid water charges under tap rate only'. Again the

petitioner sent another cheque on 02.07.2002, the same was also returned by the Corporation and thereafter as there is no communication received from the respondent Corporation, the petitioner sent a letter dated 02.11.2006 with a request to send revised bills, there is no reply from the respondent. It is stated that all of a sudden, the respondent has issued four impugned bills dated 27.03.2008 i.e., 1) Bill No.00029 for Rs.1,10,035. 2) Bill No.000032 for Rs.78,610/-. 3) Bill No.000031 for Rs.74,985/- and 4) Bill No.000030 for Rs.80,485/-; demanding arrears again @ Rs.1,000/- slab by treating the connections of the petitioner in the category of 'Semi Bulk Commercial', which is illegal. The petitioner challenged the impugned demand mainly in respect of the period prior to 21.11.2007, as the respondent demanded for payment up to 21.11.2007. The petitioner also made representation on 04.04.2008 bringing all the facts to the respondent Corporation, but there is no reply from the respondent Corporation. Aggrieved by the same, the present writ petition is filed.

3. Counter affidavit is filed by the respondent Corporation denying the averments in the affidavit filed in support of the writ petition explaining the details of the impugned bills issued to the petitioner, as under:

That the amount raised at Rs.1,09,995/- under bill No.00029 arrived under the following 3 heads:

- 1) the amount raised for the period from 01.04.2001 to 30.11.2003 i.e., for 32 months at Rs.2,000/- per month pursuant to the council resolution No.49, dated 17.11.2000. (32 x 2,000/- = 64,000).
- 2) The amount raised Rs.9,600/- for the period from 1.12.2003 to 30.11.2007 i.e., for 48 months at Rs.200/- per month pursuant to the council resolution No.276 dated 27.2.2003 which comes 48 months (48 x 200/- = Rs.9,600/-)
- 3) After fixing the meter i.e., on 20.11.2007 the bill was raised

on meter consumption from 1.12.2007 to 27.3.2008 i.e., for a period of 4 months i.e, 4 months x Rs.9,087.50 on different tariff on Kilo liters = Rs.36,350/- + Rs.45 towards Service charges Total = Rs.36,395/-. Hence, the total amount raised under bill No.00029 was at Rs.1,10,035/-.

4. That the amount of Rs.78,610/- under bill No.00032 is arrived in respect of 2nd connection and the water consumption charges has raised by the respondent corporation on the same tariff rates as raised in the above said 1st connection bill No.00029 and the same is as follows under 3 heads:

- 1) The period from 1.4.2001 to 30.11.2003 i.e., for 32 months at the rate of 2000/- per month as per the council resolution No.49 dated 17.11.2000 which comes 32 months x 2,000 = 64,000/-.
- 2) For the period from 1.12.2003 to 30.11.2007 at the rate of Rs.200/- per month for 48 months as per the council resolution No.276 dated 27.2.2003 which comes 48 months. 48 x 200 = 9,600/-.
- 3) For the period from 1.12.2007 to 27.3.2008 i.e., for a period of 4 months which was raised as per the meter consumption charges after fixing the meter i.e., 4 months. The total bill amount for 4 months in respect of bill No.00032 for 4 months was Rs.1,231-25 x 4 months = 4,925/- + Service Charges Rs.45. Total 4,970/- and as such, the total bill amount raised under 3 heads as shown above i.e., 64,000 + 9,600 + 4,970 = 78,570/- under this bill No.00032.

5. In so far as the 3rd connection bill No.00031 is concerned, the amount arrived Rs.74,985/- is the same as raised in the above said 2

bills in respect of 1st 2 heads and the only difference under 3rd head which was raised as per the consumption charges i.e., Rs.325/- per month and as such under this bill also, the petitioner is liable to pay an amount of Rs.64,000/-+9,600 + 1,345 = 74,945/.

6. In so far as the 4th connection under bill No.00030 is concerned, the amount raised is also as the same as raised in the above 3 bills in respect of 1 and 2 heads and in respect of 3rd head, the petitioner is liable to pay 1,700/- per month, the bill raised for 4 months $4 \times 1700 = 6,800$ + Rs.45 towards service charge = 6,845/-, as such, the petitioner is also liable to pay under this bill $64,000 + 9,600 + 6,845 = 80,445/-$. The petitioner is liable to pay the amount towards water charges as consumed under the above four bills and that the petitioner by suppressing the above facts, filed the present writ petition alleging that the respondent corporation has demanded arrears at the rate of Rs.1,000/- slab up to 21.11.2007, which is incorrect. The decree granted in O.S.No.411 of 1999 pertaining to only in respect of bills dated 19.09.1998 and the decree does not speak about the further bills, as such, the decree in the above suit has no application to the facts of the present case. The suit O.S.No.1506 of 2002 is filed by one S.Y.Narayan Rao and not by the petitioner, as such, it does not relate to the petitioner's bills. The respondent has raised four bills for four water connections obtained by the petitioner under the category of non-residential building and the respondent has raised the bill as per the existing tariff rates as on the dates existing as per the council resolutions in respect to period i.e., 01.04.2001 to 30.11.2003 and 01.12.2003 to 30.11.2007 and thereafter from 01.12.2007 to 27.03.2008, the bill was raised as per the units reflected on the meters as the meter was fixed on 20.11.2007 and that the petitioner is paying water charges regularly subsequent to the conditional stay granted by this Court.

7. Heard Sri Kowturu Vinaya Kumar, learned counsel for the

petitioner as well as Sri S.Lakshminarayana Reddy, learned Standing Counsel for the respondent Corporation.

8. In the bills filed by the petitioner, it is not clearly mentioned about the period from which it was demanded. But in the counter affidavit filed by the respondent Corporation, they have categorically explained the periods from which the impugned bills were raised as per the resolutions of the council and how calculations were made, by which the respondent Corporation authorizes it to collect the amounts and from 01.12.2007, the charges were collected basing on the actual consumption charges. Earlier to that period, minimum charges were collected by the respondent Corporation. It is also stated in the counter affidavit that bills were issued treating the petitioner under non-residential category and the suit filed by the petitioner also pertains to bill dated 19.09.1998 and that the impugned bills pertains to 01.04.2001 onwards. The respondent Corporation has categorically explained in respect of all the four bills in the counter, which are challenged in the writ petition. No reply is filed by the petitioner to the counter of the respondent Corporation. The respondent Corporation has categorically denied the averments that suit pertains to present demand and other suit referred to by the petitioner does not pertaining to the water connections of the petitioner lodge in the writ petition. Learned counsel for the petitioner contends that the water meter was fixed on 20.11.2007, but the arrears are being collected prior to the aforesaid date. The bills are being issued as per the actual consumption only from 01.12.2007 after meter was fixed on 20.11.2007 and earlier to that, only minimum charges have been collected as per the council resolutions from time to time.

In view of the categorical statements in the counter affidavit of the respondent Corporation, I do not see any illegality or infirmity in the bills issued by the respondent Court, as such, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

22.07.2015.

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HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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W.P. No.8950 OF 2008

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Date: 22-07-2015

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