IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.29750 of 2015
and
M.P.No.1 of 2015

P.A.Vidhyaa
D/o.Ananthanarayanan
No.2, Anugraha Apartments
No.356/221, Avvai Shanmugam Salai
Gopalapuram
Chennai - 600 086. .. Petitioner

..Vs..

1.Chennai Metropolitan Water Supply and Sewerage Board
H.O. No.1, Pumping Station Road
Chintadripet
Chennai - 600 002.

2.Assistant Engineer
Depot, 143, Area-10, CMWSSB
14, Beemanna Garden
Chennai - 600 018. .. Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Madamus forbearing the respondents herein from entering the premises of the petitioner and threatening to seal the premises of the petitioner bearing shop No.19, Luz Scheme, TNHB Complex, Mylapore, Chennai-600 004.

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For Petitioner : Ms.P.T.Asha
for M/s.Sarvabhauman Asso.

For Respondents: Mr.M.Jothikumar, for R1 & R2

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ORDER

Heard Ms.P.T.Asha, learned counsel appearing for the petitioner and Mr.M.Jothikumar, learned counsel appearing for the respondents.

2.The petitioner is said to have purchased a shop in the shopping complex constructed by the Tamil Nadu Housing Board. In this writ petition, the petitioner seeks for a direction upon the respondents not to seal the petitioner's shop on the ground that the petitioner has defaulted in payment of water and sewerage tax.

3.The petitioner's case is that the assessment orders have been issued to her without conducting any enquiry and without verifying the fact that there is no water or sewerage connection. In this regard, the petitioner has sought for certain information under the Right to Information Act and obtained the same. However, essentially in this writ petition, the petitioner seeks for a protective order not to seal her shop on the ground that she is not liable to pay the water and sewerage tax. However, this contention is difficult to appreciate since it is a settled legal principle that there can be no quid pro quo so far as tax is concerned.

4.In any event, the petitioner has got a remedy of filing an appeal before the Taxation Appellate Tribunal constituted under the Chennai Metropolitan Water Supply and Sewerage Board Act and the Tribunal is entitled to consider all issues, including whether the petitioner is liable to be assessed to tax and if so, at the rate as done by the respondent.

5.In such circumstances, when the petitioner has an effective alternate remedy, the action of the respondent should not be in a manner to thwart such a remedy nor interfere with the petitioner's right to agitate her grievance. Further, it is not known as to under which provisions of law, the respondents are empowered to seal the petitioner's premises and at best, if there is default in payment, only the water and sewerage connection could have been disconnected. However, that could not be done because the petitioner does not have water or sewerage connection.

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6.In the light of the above, there will be a direction to the respondents not to seal the petitioner's premises and simultaneously, there will be a direction to the petitioner to prefer an appeal before the Taxation Appellate Tribunal within a period of thirty days from the date of receipt of a copy of this order, questioning the demand notice issued to the petitioner as well as the authority of the respondent to levy and demand water

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and sewerage tax. If such appeal is filed before the Tribunal along with a copy of this order within a period of thirty days from the date of receipt of a copy of this order, the appeal shall be entertained by the Tribunal without reference to limitation.

7.The writ petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pgp
To

1.Chennai Metropolitan Water Supply and
Sewerage Board
H.O. No.1, Pumping Station Road
Chintadripet
Chennai - 600 002.

2.Assistant Engineer
Depot, 143, Area-10, CMWSSB
14, Beemanna Garden
Chennai - 600 018.

+1 cc to M/s.Sarvabhauman Associates sr.42222

W.P.No.29750 of 2015
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