

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition Nos. 30577 and 30578 of 2016

S.M. Anandavel

...Petitioner in both W.Ps.

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
1131, EVR Periyar Salai,
Park Town, Chennai-600003.
2. The Asst. Revenue Officer,
Corporation of Chennai,
Chennai Zone 7,
P.H. Road, Chennai-600010.
3. Chennai Metropolitan Water Supply and Sewerage Board,
Represented by its Managing Director,
No.1 Pumping Station Road, Chinthadripet,
Chennai-600 002.
4. Area Engineer VIII,
Chennai Metropolitan Water Supply and Sewerage Board,
227, II Avenue, Near 12th Main Road,
Anna Nagar, Chennai-600 040. ...Respondents in both W.Ps.

Prayer in W.P.No.30577 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, forbearing the respondents from illegally disconnecting sewerage connection, belonging to the petitioner, pending resolution of dispute in regard to assessment of property tax with the first respondent and sewerage tax with the third respondent.

Prayer in W.P.No.30578 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the demand notice, dated 09.05.2014, in 05/064/2434/000001 of the third respondent in regard to the petitioner, and to quash the same.

In both W.Ps.

For Petitioner : Mr. Niranjan Rajagopalan
for M/s. G.R. Associates,

For Respondents 1 & 2 : Mr.T.C.Gopalakrishnan
Standing Counsel

For Respondents 3 & 4 : Mr.M.Jothi Kumar
Standing Counsel

COMMON O R D E R

Heard Mr.Niranjan Rajagopalan, learned counsel for M/s. G.R.Associates, learned counsel for the petitioner, Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondent/Corporation of Chennai, and Mr.M.Jothikumar, learned Standing Counsel for respondent/Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB).

2. Since the parties in these Writ Petitions are one and the same, and the relief sought for herein is interconnected, these Writ Petitions are taken up together, and disposed of by this common order.

3. Totally, five Writ Petitions have been filed by the petitioner, out of which, three Writ Petitions, (viz., W.P.Nos.30574 to 30576 of 2016) which were directed against the action initiated by Corporation of Chennai, pertaining to the property tax, were already disposed of, by this Court, by order, dated 01.09.2016, which reads as follows:-

"Heard Mr.Niranjan Rajagopalan for M/s. G.R.Associates, learned Counsel for the petitioner. Mr.T.C.Gopalakrishnan, learned Standing Counsel, who accepts notice on behalf of the respondents 1 and 2 and Mr.M.Jothi Kumar, learned Counsel, accepting notice on behalf of respondents 3 and 4. With the consent of either side, the writ petitions are taken up for final disposal.

2. The petitioner appears to have had long drawn legal battle with the respondent-Corporation in respect of assessment of the property tax of the subject building. When a warrant notice was issued on 07.03.2001, the petitioner approached the City Civil Court, and filed a Suit in O.S.No.5192 of 2001,

which was decreed in favour of the petitioner by a judgment and decree dated 21.04.2004. By virtue of the said decree, warrant notice, dated 07.03.2001, was held to be void, illegal, without jurisdiction and unenforceable and the respondent-Corporation was restrained by a decree of permanent injunction from taking further proceedings, pursuant to the warrant notice, dated 07.03.2001. The petitioner also filed another suit against CMWSSB for the same relief, in O.S.No.2321 of 2008 which was also decreed in his favour on 23.01.2009. The respondent-Corporation appears to have not preferred any appeal against the decree, dated 21.04.2004 and the same has become final.

3. In the meantime, whatever payment the petitioner has effected, is said to have been adjusted with the past arrears during which the respondents were not entitled to collect the property tax at the said rate. Thus, the petitioner would state that he has not been informed as to how the assessment has been made at different rates, at different points of time, and how, the adjustments have been effected as against the payments made by the petitioner. The petitioner would submit that from the computerized statement generated from the Official Website of the Corporation of Chennai, dated 06.06.2016, it appears that the property tax has been revised twice. Initially, it was fixed as Rs.20,527/- per half year, for the period from I/93-94 and remained the same till I/1998-99, thereafter, from II/1998-99 it has been revised as Rs.41,053/- per half year, and the subsequent revision was for the period II/2001-02 at Rs.51,265/- per half year. The petitioner, through his counsel, sent a representation on 06.05.2016, pointing out that it is not known as to how the increased amount has been said to be collected, and in the meantime, the respondents has collected Rs.7.5 lakhs from the petitioner during the year 2010. Thus the petitioner seeks for full details.

4. The learned counsel for the respondent- Corporation, on instructions, submitted that the respondents are ready and willing to furnish full details to the petitioner. However, as it is not clear as to what are the details the petitioner would require, it would be advisable if the respondent-Corporation affords an opportunity of personal hearing to the petitioner in which the petitioner should clearly disclose as to what are the documents and details required by him.

5. Accordingly the writ petitions, in W.P.Nos.30574 and 30576 of 2016 stand disposed OF, by directing the second respondent, the Assistant Revenue Officer, Corporation of Chennai, Zone-VII to afford an opportunity of personal hearing to the petitioner, or his authorised representative, within a period of two weeks from the date of receipt of the copy of this order, and during the course of personal hearing, the petitioner shall clearly indicate as to what are the details required by him and the said details in the form of statement with orders be furnished to the petitioner within a period of two weeks thereafter. On receipt of the details and documents, it is open to the petitioner to work out his remedy in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

6. In the light of the above direction, W.P.No.30575 of 2016 stands disposed of, leaving it open to the petitioner to question the general revision done, vide proceedings, dated 26.08.2009 after he obtains the full details in terms of the above direction issued in the other two writ petitions. No costs. Consequently, connected miscellaneous petition is closed."

4. Now, in the present two Writ Petitions, viz., W.P.Nos.30577 and 30578 of 2016, the petitioner questions the action initiated by CMWSSB, stating that, what has been demanded as water and sewerage tax is exorbitant and not sustainable.

Further, the demand of surcharge, more than tax is also unreasonable.

5. It cannot be disputed that, computation of water and sewerage tax is based upon the property tax, which is fixed and demanded, and it is 7% of the property tax. Since this Court has remanded the matter to the Corporation of Chennai, for the purpose of ascertaining as to what would be the correct rate of property tax, it would be appropriate for CMWSSB to await the decision of the Corporation of Chennai, as such decision will have direct impact on the assessment of water and sewerage tax.

6. Thus, considering the present demand, and also taking note of the payment made by the petitioner earlier, which is stated to be Rs.2,00,000/-, there will be a direction to the petitioner to remit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the fourth respondent, towards part of the payment of water and sewerage tax, and this remittance will be subject to the confirmation of orders to be passed by CMWSSB after the property tax assessment is completed by Corporation of Chennai, as per the direction issued in other sets of Writ Petitions, viz., W.P.Nos.30574 to 30576 of 2016. The petitioner is directed to effect payment of Rs.50,000/- within a period of four weeks from the date of receipt of a copy of this order. If such payment is made, the water and sewerage connection shall not be disconnected, and the impugned proceedings shall be kept in abeyance till final orders is being passed by the Corporation of Chennai.

7. With the above observations and directions, the Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
1131, EVR Periyar Salai,
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2. The Asst. Revenue Officer,
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Chennai Zone 7,
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3. The Managing Director,
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No.1 Pumping Station Road, Chinthadripet,
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4. Area Engineer VIII,
Chennai Metropolitan Water Supply and Sewerage Board,
227, II Avenue, Near 12th Main Road,
Anna Nagar, Chennai-600 040.

2 ccs to M/s.G.R.Associates, Advocates, sr.50016, 50017

1 cc to Mr.T.C.Gopalakrishnan, Advocate, sr.50121

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