



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

W.A. (MD) No.1094 of 2016
and
C.M.P. (MD) No.6619 of 2016

M/s.Dhivya,
Rep. through its partner
V.Poongothai

: Appellant

Vs.

1. The Madurai Municipal Corporation,
Rep. through its Commissioner,
Arignar Anna Maligai, Madurai.
2. M/s.Commondom Investment Private Limited,
Through its Managing Representative,
Sri.K.S.Ravindranath

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent praying to allow the Writ Appeal by setting aside the order of Writ Court dated 24.06.2016, made in W.P.(MD)No.11189 of 2016.

Prayer in WP(MD). 11189/ 2016 :

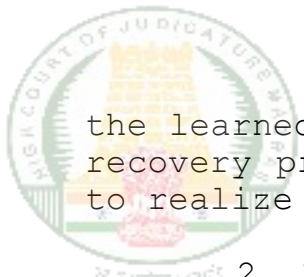
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issuance of a Writ of Certiorari calling for the records in relation to the demand cum distraint proceedings dt:10.06.2016 of the 1st respondent in relation to the Property Tax Assessment No.56262 and quash the same.

For Appellant : Mr.A.R.M.Ramesh
For Respondent No.1 : Mr.R.Murali

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

This intra-court appeal is directed against the order dated 24 June, 2016, in W.P.(MD)No.11189 of 2016, whereby and whereunder,



the learned Single Judge dismissed the Writ Petition challenging the recovery proceedings initiated by the Madurai Municipal Corporation to realize the property tax arrears from the second respondent.

2. By consent, the intra-court appeal is taken up for final disposal during the time of admission.

3. The appellant is a tenant under the second respondent. The present monthly rent is Rs.25,000/- (Rupees Twenty Five Thousand only). According to the appellant, monthly rent upto 31 May, 2016 has already been paid. The rent is due from June, 2016 onwards.

4. The Madurai Municipal Corporation issued a distraint notice dated 10 June, 2016 calling upon the owners of the property to pay the arrears of property tax for the period commencing from 2001-2002. The notice was challenged by the appellant before the Writ Court when an attempt was made to attach the property including movables.

5. The learned Single Judge dismissed the Writ Petition primarily on the ground that there is an appeal remedy available to the appellant.

6. Heard the learned counsel for the appellant and the learned Standing Counsel for the Madurai Municipal Corporation.

7. There is no dispute that the appellant is only a tenant. The liability of the appellant is only to pay the monthly rent. The local body is entitled to recover the amount by resorting to distraint proceedings including attachment and sale of the immovable property. The appellant is prepared to pay the monthly rent to the Madurai Municipal Corporation till the arrears is discharged. We are, therefore, of the view that an equitable order to protect the interest of the Municipal Corporation as well as the business interest of the appellant should be passed in this matter.

8. We direct the appellant to deposit the monthly rent of Rs.25,000/- (Rupees Twenty Five Thousand only) with the Madurai Municipal Corporation effective 01 June, 2016. In short, monthly rent for the month of June, 2016, at the rate of Rs.25,000/- (Rupees Twenty Five Thousand only) per month shall be paid, within one week from the date of receipt of a copy of this judgment. There shall be a further direction to the appellant to pay another sum of Rs.1,00,000/- (Rupees One Lakh only) to the Municipal Corporation, within two weeks from the date of receipt of a copy of this judgment. The appellant is directed to deposit the subsequent monthly rent on the second day of succeeding month. This arrangement would continue till the entire amount due to the Madurai Municipal Corporation is paid. We also make it clear that this judgment would not prevent the Corporation from attaching the immovable property and taking other action including sale to recover the arrears of property tax.



9. The intra-Court appeal is disposed of as indicated above.
No costs. Consequently, the connected civil miscellaneous petition
is closed.

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Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Madurai Municipal Corporation,
Arignar Anna Maligai,
Madurai.

+ 1 CC TO MR.A.R.M.RAMESH, ADVOCATE IN SR No. 35731
+ 1 CC TO MR.R.MURALI, ADVOCATE IN SR No. 35885

SML/NB

TE/GSV-PM/ : 27/07/2016 : 3P/4C

Judgment made in
W.A. (MD) No. 1094 of 2016
and
C.M.P. (MD) No. 6619 of 2016
Dated: 11.07.2016