

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17458 of 2017 &
W.M.No.18957 of 2017

R.P.Krishnan

... Petitioner

Vs.

1.The Principal Secretary to Government
of Tamil Nadu, Municipal Administration,
Fort St.George, Chennai - 600 009.

2.The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board, 1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

3.The Commissioner of Chennai Corporation,
Corporation of Chennai,
Rippon Building, Chennai - 600 003.

4.The Special Tahsildar,
Revenue Recovery,
CMWSSB, Area-V, Chennai - 600 021.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records on the file of the fourth respondent proceedings in demand notice vide number Old CMC.No.07/106/0979/000000, dated 09.06.2017 and quash the same as illegal, null and void ultra virus and consequently direct the fourth respondent to make

revisional assessment in accordance with the guidelines given in Circular No.Roc.No.63012/04/R1 dated 02.02.2008 issued by the first respondent.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mrs.A.Srijayanthi,
Special Government Pleader (For R1 & R4)
Mr.M.Jothikumar (For R2)
Mr.T.C.Gopalakrishnan (For R3)

ORDER

Heard Mr.S.Venkatesh, learned counsel for the petitioner, Mrs.A.Srijayanthi, learned Special Government Pleader for the respondents 1 and 4, Mr.M.Jothikumar, learned counsel for the second respondent and Mr.T.C.Gopalakrishnan, learned counsel for the third respondent. With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner has approached this Court by challenging the demand notice issued by the fourth respondent, dated 09.06.2017, demanding water charges and sewerage charges along with surcharge. The petitioner was granted water and sewerage connection for his building, which is partly commercial and partly residential.

3. When the matter came up for admission on 11.07.2017, the learned Standing Counsel accepted notice on behalf of the respondent and sought time to get instructions. Accordingly, the matter was listed today (13.07.2017) and Mrs.P.Kalavathy, Senior Accounts Officer of the respondent Department is present today.

4. The respondent would submit that the petitioner has not paid any of the charges for several years and the water connection has already been disconnected and only the sewerage connection is in existence. The arrears due and payable by the petitioner has been produced in a form of printed tabulated statement upto July 2017, being a total sum of Rs.2,70,218/-. Out of the said amount, the total charges which is payable, is Rs.1,07,151/- and the remaining amount of Rs.1,63,067/- is a surcharge. Thus, it is clear that the petitioner has come forward with an incorrect facts and rather a false case stating that no payment was due. It cannot be disputed that the assessment card itself is a demand, which specifically states that the consumer card is to be treated as a demand notice under Sections 34, 35, 44 and 47 of the Chennai Metropolitan Water Supply and Sewerage Board Act, 1978 (CMWSSB Act).

5. Further it states that the water and sewerage tax is a statutory levy and to be paid irrespective of water and sewerage connections available or not and becomes due after 15 days from 1st April and 1st October of each half year. Further for the delayed payment, surcharge is collected at 1.25% per month on recurring basis. In terms of Section 62(2) of the CMWSSB Act, the owner and occupier of the premises shall be jointly and severally liable for payment of all sums due to the Board. The present owner of the property is liable for making payment of taxes and charges, are unpaid by the previous owners. Thus, the payment conditions and guidelines as mentioned in the assessment card binds the petitioner. Therefore, the petitioner has not made out any case for interference with the impugned notice.

6. The learned counsel for the petitioner submitted that the petitioner will be ready and willing to pay the entire charges, however, requests that some indulgence may be granted for the payment of surcharge.

7. I have heard the learned Standing Counsel for the respondents on the above submission.

8. Considering the facts and circumstances of the case, this Court while dismissing the writ petition, is inclined to grant certain directions:-

i) In the light of the above discussions, the writ petition is dismissed;

ii) The petitioner is directed to pay the total amount of Rs.1,07,151/- (Rupees One lakh seven thousand one hundred and fifty one only), within a period of two weeks from the date of receipt of a copy of this order;

iii) The petitioner is directed to pay the entire surcharge amount of Rs.1,63,067/- (Rupees One lakh sixty three thousand and sixty seven only) at the rate of Rs.7000/- per month and the first installment will commence from August 2017, payable on or before 15th of every month;

iv) In case, the petitioner defaults in payment of any two installments, the respondents are entitled to collect the entire amount at one lump sum together with appropriate interest. In any event, the petitioner fails to pay a sum of Rs.1,07,151/-, as directed, within two weeks from the date of

receipt of a copy of this order, the benefit of the above order will not enure to the petitioner and it is open to the respondents to take further action on merits and in accordance with law.

No costs. Consequently, the connected miscellaneous petition is closed.

13.07.2017

Index:Yes/No
abr/pbn

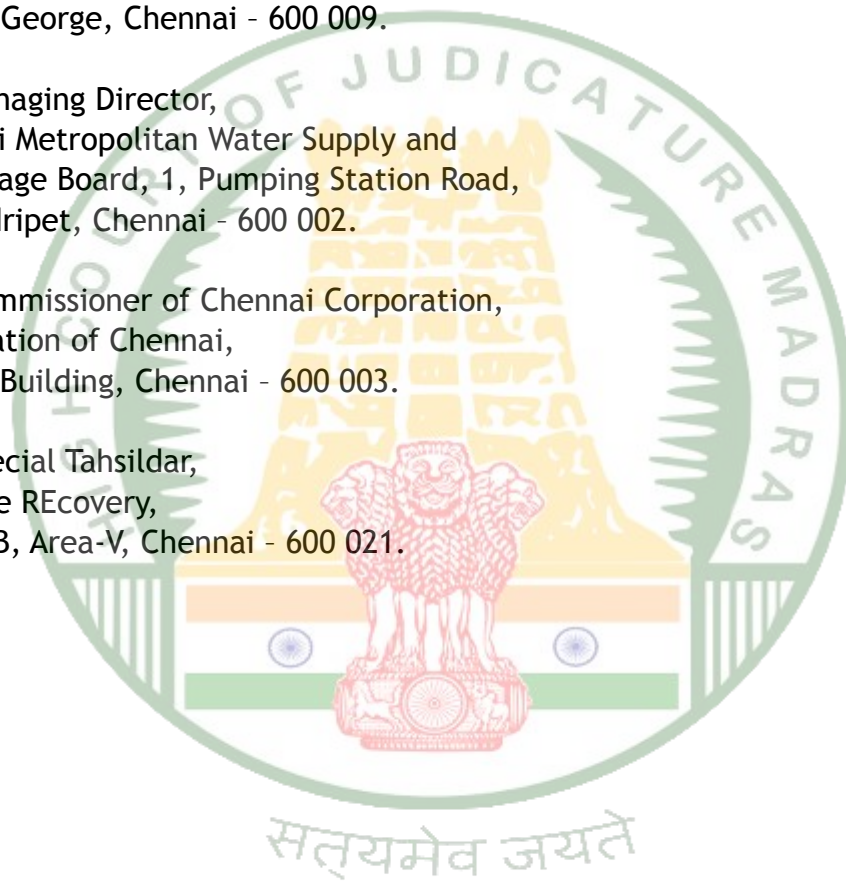
Note : Issue order copy on 14.07.2017



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To

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of Tamil Nadu, Municipal Administration,
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T.S.SIVAGNANAM, J.

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