

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.A.No.2524 of 2012
and MP.No.1 of 2012

1.The Area Manager

Area II, Chennai Metropolitan
Water Supply and Drainage Board
No.1, M.C. Road, Anna Poonga
Chennai - 600 081.

2.The Area Engineer

Area II, Chennai Metropolitan
Water Supply and Drainage Board
No.1, M.C. Road
Anna Poonga, Chennai - 600 081.

3.Chennai Metropolitan Water Supply
and Drainage Board,
No.1, Pumping Station Road
Chennai - 600 002.

..Appellants/Respondents

Vs.

1.K.Sharma Sundar Rao

Rep. by its Power of Attorney Agent
K.Vimala

2.U.Mohan Rao

Rep.by its Power of Attorney Agent
K.Vimala

.. Respondents/Petitioners

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P.No.5450 of 2004 dated 19.01.2012 passed by this Court and allow the Writ Appeal.

Prayer in WP.5450/04:Praying for writ of Certiorarified mandamus calling for the records in proceedings No.7791 dated 11.02.2003 on the file of the first respondent to quash the same and direct the first respondent to record the change in ownership of the premises at no.20, jahangir Street, Chennai-600 002 in the name of the petitioners.

For Appellants : Mr.V.Perumal

For Respondents : No Appearance

JUDGMENT

[Judgment of the Court was made by M.SATHYANARAYANAN,J.]

The official respondents in W.P.No.5450 of 2004 are the appellants. The respondents herein filed the writ petition praying for issuance of Writ of Certiorarified Mandamus to quash the disconnection notice dated 11.02.2003 issued by the officials of the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) with a further direction directing the first respondent to change the ownership of the premises bearing Door No.20, Jahangir Street, Chennai - 600 002 in their name, and the writ petition after contest came to be allowed on 19.01.2012 and challenging the same, the present writ appeal has been filed.

2. The learned counsel appearing for the appellants/official respondents in the writ petition would submit that unless and until the respondents/writ petitioners change their name in the relevant records maintained by the Corporation of Chennai, they cannot change their names in the records of the appellant-Board and has also invited the attention of this Court to Section 106 of the Chennai City Municipal Corporation Act, 1919. It is the further submission of the learned counsel appearing for the appellants that in the absence of any specific provision in the Chennai Metropolitan Water Supply and Sewerage Act, 1978, the appellants herein cannot change it and further when the Statute prescribes a thing to be done in a particular manner, it can be done only in that particular manner and it cannot be done in any other manner and therefore, prays for setting aside the impugned order dated 19.01.2012, by allowing this writ appeal.

3. Though the respondents have been served and their names have been printed in the cause-list, there is no representation on their behalf today.

4. This Court considered the submissions made by the learned counsel appearing on behalf of the appellants and also perused the materials placed before it.

5. It is also relevant to extract Section 106 of the Chennai City Municipal Corporation Act, 1919 :

106. Obligation of transferor and transferee to give notice of transfer.-

(1) Whenever the title of any person primarily liable to the payment of the property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same shall be transferred shall, within three months after the execution of the instrument of transfer or after its registration if it be registered or after the

transfer is effected, if no instrument be effected, give notice of such transfer to the commissioner.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise shall give notice of such transfer to the commissioner within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the commissioner may direct and the transferee or the person to whom title passes, as the case may be, shall if so required, be bound to produce before the commissioner any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the commissioner shall be [in addition to any other liability which he may incur through such neglect] continue liable for the payment of the property tax assessed on the premises transferred until he gives notice or until the transfer shall have been recorded in the municipal registers, but nothing in this section shall be held to affect

(a) the liability of the transferee for the payment of the said tax, or

(b) the prior claim of the corporation under section 103.

6. The learned Judge after taking note of the fact that the official respondents have not filed their counter in the writ petition and also observed that when there is a request made by the writ petitioners to transfer the demand of property tax in their names, the first respondent is duty bound to consider the same based on the records, after affording opportunity to Mr.U.Bhujanga Rao, in whose name the records stood and further held that it is not appropriate on the part of the appellants/respondents in the writ petition to retain the name of Mr.U.Bhujanga Rao, in the documents, who is no more a owner then and continued to issue the impugned demand notice in the name of Mr.U.Bhujanga Rao.

7. In the considered opinion of this Court, the said reasons are unsustainable and unless and until the respondents/writ petitioners approach the Corporation of Chennai for mutation of records in their names, the appellants cannot be expected to

change the names of the respondents/writ petitioners in the records maintained by them, regarding payment of water tax and other charges. As rightly pointed out by the learned counsel appearing for the appellants that Section 106 of the Chennai City Municipal Corporation Act, 1919, has prescribed a thing to do so and it is a well settled position of law that unless the contemplation required under statute is followed, it is not obligatory on the part of the appellants to do so.

8. In the result, the appeal is allowed, and the order dated 19.01.2012 made in W.P.No.5450 of 2004 is set aside and as a consequence the writ petition stands dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Area Manager
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+1cc to Mr.V.Perumal, Advocate, S.R.No.67825

W.A.No.2524 of 2012

SVI (CO)
GN(26/10/2017)