IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

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THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

W.P.Nos.24918 to 24921 of 2010

1.S.Viswanathan
2.Dr.S.Muthiah ... Petitioners
in W.P.Nos.24918 & 24919/10

1.Theivanai
2.V.Kannamma ... Petitioners
in W.P.Nos.24920 & 24921/10

Vs.

1.Corporation of Chennai,
Rep. By its Commissioner,
Rippon Buildings,
Chennai – 3.

2.The Assistant Revenue officer,
Corporation of Chennai,
Zone VIII, Lake Area,
Nungambakkam,
Chennai – 34. ... Respondents
in all WPs.

3.The Tahsildar – VII,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.25, Sathiamoorthy Road,
Chetpet, Chennai – 31. ... 3rd respondent in
in W.P.Nos.24920 & 24921/10

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PRAYER in W.P.No.24918/10: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records pertaining to the impugned property tax demand notice dated 29.03.2010 on the file of the second respondent in Bill No.07/110/50/31 demanding a sum of Rs.3,48,205/- for the period 2/01-02 to 2/09-10 for the property situated at Old No.188/189/2F/3/1, New No.3/2, Anna Salai, Chennai and quash the same.

PRAYER in W.P.No.24919/10: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records on the file of the third respondent pertaining to all further proceedings in pursuant to the issuance of the impugned attachment notice dated 28.08.2010 in demand No.07/110/0050/31 issued by the third respondent demanding a sum of Rs.1,51,180/- for the period 2/2001-02 to 1/2010-11 for the petitioner's property situated at Old No.188/189/2F/31, New No.3/2, Anna Salai, Chennai and quash the same.

PRAYER in W.P.No.24920/10: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records pertaining to the impugned property tax demand notice dated 29.03.2010 on the file of the second respondent in Bill No.07/110/50/30 demanding a sum of Rs.4,55,655/- for the period 2/01-02 to 2/09-10 for the property situated at Old No.188/189/2F/3/2, New No.3/1, Anna Salai, Chennai and quash the same.

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PRAYER in W.P.No.24921/10: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records on the file of the third respondent pertaining to all further proceedings in pursuant to the issuance of the impugned notice dated 06.09.2010 in eme.No.07/110/0050/30 issued by the third respondent under Section 62(2) of the Chennai Metropolitan Water Supply and Sewerage Act No.28/78 demanding a sum of Rs.2,66,623/- for the period 2/2001-02 to 1/2010-11 for the petitioner's property situated at Old No.188/189/2F/3/2, New No.3/1, Anna Salai, Chennai and quash the same.

For Petitioner : Mr.T.S.Venkateshan

For Respondents : Mr.R.Arunmozhi

COMMON ORDER

Heard Mr.K.Venkatesh, learned counsel for the petitioners and Mr.R.Arunmozhi, learned standing counsel for the respondents.

2. The petitioners are before this Court for the second time. Earlier, they had filed writ petitions in the year 2009 in W.P.Nos.19733 and 19734 of 2009. The said writ petitions were disposed of by orders dated 11.11.2009 by issuing the following directions. For better appreciation, entire order passed in W.P.No.19733 of 2009, dated 11.11.2009, is quoted herein-below:

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"The petitioners have challenged the demand notice wherein the petitioners have been called upon to pay a sum of Rs.3,19,340/- which is stated to be arrears of tax.

2. The case of the petitioners is that without any notice of revision, the demand notice has been made. Learned counsel for the petitioners submits that though the property tax has been periodically revised, there is hardly any material produced before this Court to accept such a plea which is a very generallised statement. If there had been any demand made earlier after giving an opportunity to the petitioners, then the demand notice made pursuant to the assessment or a revision of assessment, at least, may carry a reference under the impugned order passed.

3. Even a cursory glance of the working given under the impugned notice would show how the demand has been fixed in a reversal order. The second respondent is directed to apply his mind to the working made, intimating the petitioners as to the grounds of revision, grant an opportunity to the petitioners and pass necessary orders after giving credit to the tax already paid. The second respondent shall issue notice within a period of four weeks from today to enable the petitioners to put forth their objection. Until then, the demand notice shall be kept in abeyance.

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The writ petition is disposed of accordingly.

No Costs. Connected MP.No.2 of 2009 stands closed."

3. In terms of the above directions, the second respondent was directed to issue notice by applying his mind to the working made intimating the petitioners as to the grounds of revision, grant an opportunity to them and then pass necessary orders after giving credit to the tax already paid.

4. On perusal of the original files produced before this Court by the learned standing counsel for the respondent Corporation, the second respondent did not understand the purport of the directions issued in the earlier writ petitions and issued a notice dated 31.12.2014 merely directing the petitioners to appear before him on 12.01.2015. The Court had specifically directed to intimate the petitioners the grounds of revision and then grant an opportunity. This was not followed nor the other procedures contemplated under the provisions of the Chennai City Municipal Corporation Act had been adhered to and straight-away the distraint notice has been issued in the year 2009. Thus, the impugned proceedings are in total violation of the principles of natural justice, apart from being in violation of the directions issued by this Court in the earlier writ petitions.

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5. For the above reasons, the writ petitions are allowed and the impugned orders are quashed giving liberty to the respondents to proceed further in accordance with law. No Costs. Consequently, connected miscellaneous petitions are closed.

20.07.2017

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Index: Yes/no
Internet: Yes/no

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T.S.SIVAGNANAM, J.

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