

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2018

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.5157 OF 2018

AND

W.M.P.NO.6328 OF 2018

K. Chandran

...Petitioner

Vs.

Tahsildar/Deputy Collector, Area IX,
The Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Dr. Ranga Road at Ramapuram,
Chennai - 600 018.

...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records, relating to the impugned distraint proceeding prior notice, dated 27.02.2018, passed by the respondent and to quash the same.

For Petitioner : Mr.R. Thiagarajan

For Respondent : Mr.N.Ramesh
Standing Counsel

O R D E R

Heard Mr.R.Thiagarajan, the learned counsel appearing for the petitioner and Mr.N.Ramesh, the learned Standing Counsel appearing on behalf of the respondent/Chennai Metropolitan Water Supply and Sewerage Board.

2. The petitioner is a tenant in respect of the subject property, and aggrieved by the distraint notice served on him, for arrears of water and sewerage tax, being Rs.3,62,418/-. Pursuant to the interim order granted by this Court, dated 07.03.2018, the petitioner has paid a sum of Rs.2,00,000/-. If the same is given credit to, the remaining amount would be Rs.1,62,418/-.

3. The learned counsel appearing for the petitioner would vehemently contend that, the respondent/Board should proceed only against the owner of the premises and not against the tenant (petitioner). However, the provisions of Chennai Metropolitan Water Supply and Sewerage Act, empowers the respondent/Board to proceed against the occupier, in the event of default committed by the owner, and it is not mandatory that, first the CMWSSB have to recover from the owner, and then, come to the tenant. In the instant case, the owner of the subject property has not paid the water tax. The petitioner has entered into a lease deed, dated 16.07.2017, with the owner of the property. Thus, it is clear that the petitioner is in possession and enjoyment of the property in question. Therefore, he, being the occupier, authorized by the owner of the premises, is liable to pay the water and sewerage tax in the event of default committed by the owner. Hence, there is no error, in demanding the amount from the petitioner/tenant. However, this Court will observe that, any payment made by the petitioner as regards the water and sewerage tax liability is recoverable from the owner, as in the lease deed, dated 16.07.2017, there is a specific condition that the owner/lessor has to pay the water and sewerage tax. Thus, in the light of the condition contained in the lease deed, viz., clause 3, the petitioner is entitled to recover the entire money from the owner. It appears that the water and sewerage connection has been disconnected. Since the petitioner has paid Rs.2,00,000/-, the respondent is directed to forthwith restore the water and sewerage connection to the subject property. So far as the balance of Rs.1,62,418/- (Rupees One Lakh Sixty Two Thousand Four Hundred and Eighteen only) is concerned, the petitioner is directed to clear the same in installments within a period of four months from the date of receipt of a copy of this order. As observed in the preceding para, the petitioner is entitled to recover the entire amount paid by him from the owner of the premises.

4. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

Tahsildar/Deputy Collector, Area IX,
The Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Dr. Ranga Road at Ramapuram,
Chennai - 600 018.

+1cc to Mr.R. Thiagarajan, Advocate sr.30125

+1cc to Mr.N.Ramesh, Advocate sr.no.30042

Writ Petition No.5157 of 2018

nr 15/05/2018



WEB COPY