IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3289 of 2010

M/s.South India Paper Distributing
Company Pvt. Ltd.,
No.10, Sunkurama Chetty Street,
Chennai-600 001.
Represented by its Authorised Signatory
Mr.S.Palaniappan .. Petitioner

Vs.

1.Corporation of Chennai,
Represented by the Commissioner,
Ripon Buildings,
Chennai-600 003.

2.The Assistant Revenue Officer,
Corporation of Chennai,
Zone II, 47, Basin Bridge,
Chennai-600 079.

3.T.M.B.Anwar Ali @ T.R.Z.Anwar Ali,
5th Floor, 109,
Nungambakkam High Road,
Chennai-600 034. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first and second respondents to recover only the monthly rents of Rs.9,000/- from the petitioner towards the arrears of property tax for the petition premises at No.10, Sunkurama Chetty Street, Chennai-600 001.

For Petitioner : Mr.K.F.Manavalan

For Respondents-1&2 : Mr.T.C.Gopalakrishnan

For Respondent-3 : Mr.Lavan

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents 1 and 2 to recovery the monthly rents of Rs.9,000/- from the writ petitioner towards the arrears of property tax for the petitioner-premises at No.10, Sunkurama Chetty Street, Chennai-1.

2. The learned counsel for the writ petitioner states that the writ petitioner is a tenant and the third respondent is the owner of the premises. The learned counsel for the writ petitioner further states that several disputes are going on and pending between the landlord and the tenant in respect of the said premises. Thus, there is a dispute even with regard to the payment of property tax to the respondent-Corporation.

3. It is contended by the learned counsel for the writ petitioner that it is the duty of the Corporation to recover the property tax from the third respondent-landlord and therefore, the respondents are at liberty to recover it from the landlord and the writ petitioner is not liable.

4. The learned counsel, appearing on behalf of the respondents 1 and 2-Corporation, informed this Court that the arrears of property tax due as of now in respect of the premises under the occupation of the writ petitioner is Rs.15,50,089/-. Thus, the writ petitioner and the third respondent are chronic defaulters in payment of property tax. Thus they deserve no leniency from the hands of this Court.

5. This Court is of an opinion that disputes pending between the landlord and the tenant would not constitute a ground for the writ petitioner to clear the payment of property tax arrears. It is the joint liability of the landlord and the tenant to ensure that the property tax is properly paid. In the event of non-payment of the property tax by the writ petitioner, the Corporation of Chennai is entitled to proceed against the property itself. Though the writ petitioner claims that the writ petitioner is the tenant and the third respondent is the landlord, the disputes between them will not preclude the Corporation of Chennai from recovering the property tax arrears and other payments to be paid by the writ petitioner and the landlord.

6. At the outset, the disputes between the tenant and the landlord would not provide any cause of action for moving a writ petition in order to evade the payment of property tax to the Corporation of Chennai.

7. Citizen in general are using the infrastructure

facilities and other common amenities, including roads etc., provided by the local authority and the State. When the citizen are using such common amenities and infrastructural facilities, they are bound to pay the property tax, within the time limit prescribed by the authorities concerned.

8. Payment of property tax is to be cleared in the interest of public at large. Non-payment of property tax would be treated as an infringement on other's right. For instance, if a few citizen refused to pay property tax to Chennai Corporation by utilising the infrastructural facilities and other amenities from and out of the tax payers' money, then they are infringing the rights of other citizen. It is the duty cast on the part of the authorities concerned to ensure that every citizen is paying the property tax in the interest of the public at large.

9. Evasion of the property tax is to be construed as an offence. Evasion of property tax will result in denial of rights of others. When equality in law and the constitutional rights are ensured to every citizen, this Court is of an opinion that the same is to be ensured by uniform implementation of law in respect of all concerned. Thus, the payment of property tax and recovery of such tax by the competent officials are the important functions of the State ensured under the Constitution of India. Any inaction on the part of the officials are also to be viewed seriously. The officials, who are duty bound to collect the property tax from the persons concerned, also should face departmental proceedings on the hands of the Disciplinary Authorities.

10. Thus, it is made clear that if the property tax and the arrears are not collected promptly by the officials concerned, then the Commissioner of Chennai Corporation is bound to initiate appropriate disciplinary proceedings against all such officials for their inaction, negligence and dereliction of duty. In this view of the matter, it is made clear that the writ petitioner cannot evade payment of property tax on account of the disputes prevailing between the tenant and the landlord. It is the joint responsibility of the landlord and the tenant and of course, the Corporation of Chennai, cannot made to suffer on account of such disputes.

11. In this view of the matter, the following directions are issued:-

(i) The writ petitioner and the third respondent are directed to clear the entire property tax arrears amount of Rs.15,50,089/-, within a period of two weeks from the date of receipt of a copy of this order;

(ii) In the event of not paying the property tax, within the period of two weeks, then the respondent-Corporation is directed to initiate all further actions by following the procedures contemplated under the law, within a period of four weeks thereafter.

12. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

2.The Assistant Revenue Officer,
Corporation of Chennai,
Zone II, 47, Basin Bridge,
Chennai-600 079.

+1cc to Mr.K.Lavan, Advocate, S.R.No. 62004
+1cc to Mr. T.C.Gopalakrishnan, Advocate, S.R.No. 62345

WP 3289 of 2010

GN(24/09/2018)