IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.35897 and 35898 of 2016
and W.M.P. Nos.30834 to 30837 of 2016

P.S.M.Seyed Abdul Khadir (deceased)
1.P.S.M.Ahamed Abdul Kadir
2.P.S.M.Haseenath Nisa
3.P.S.M.Sithi Marlia .. Petitioners in both cases

(Petitioners are substituted vide W.M.P. Nos.
28155 & 28156 of 2018 by SMSJ on 19.09.2018)

Versus

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

2. The Assistant Revenue Officer,
Corporation of Chennai,
Zone-09, Division-123,
No.4, 4th Cross Street, Lake View Road,
Chennai-600 034.

3. The Chairman-cum-Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai-600 002.
.. Respondents in W.P.No.35897 of 2016

1. The Chairman-cum-Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai-600 002.

2. The Assistant Engineer/Junior Engineer,
Chennai Metropolitan Water Supply and
Sewerage Board,Area-9, Division-123,
No.31, C.P.Ramasamy Road,
Alwarpet, Chennai-600 018.

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

.. Respondents in W.P.No.35898 of 2016

Prayer in W.P. No.35897 of 2016:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the impugned Statement showing increased property tax with arrears issued by the Corporation of Chennai, the first respondent herein, dated 04.10.2016 under Property I.D.09-123-12307-000 (Old Property I.D. No.08-115-0526-000) in respect of property at No.163, T.T.K.Road, Alwarpet, Chennai-600 018 and quash the same.

Prayer in W.P. No.35898 of 2016:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the impugned demand-cum-notice for disconnection of water and sewerage connection issued by the second respondent dated 19.09.2016 under No.4428 (C.M.C. No.09/123/10273/000) in respect of property at Door No.163, T.T.K.Road, Alwarpet, Chennai-600 018 and quash the same.

For Petitioners in both cases : Mr.A.S.Kaizer

For Respondents : Mr.T.C.Gopalakrishnan
for R1 & R2 in
W.P.No.35897 of 2016 and
for R3 in W.P.No.35898 of 2016

Mr.M.Jothikumar for R3 in
W.P.No.35897 of 2016 and
for R1 and R2 in
W.P. No.35898 of 2016

COMMON ORDER

W.P. No.35897 of 2016 has been filed challenging the impugned Statement showing increased property tax with arrears dated 04.10.2016 issued by the Corporation of Chennai, the first respondent herein, under Property I.D.09-123-12307-000 in respect of the property situated at No.163, T.T.K.Road, Alwarpet, Chennai-600 018.

W.P.No.35898 of 2016 has been filed challenging the impugned demand-cum-notice for disconnection of water and sewerage connection dated 19.09.2016 issued by the second respondent under No.4428 in respect of the above said property.

2.The learned counsel appearing for the petitioners submitted that one P.S.M.Seyed Abdul Khadir originally filed these writ petitions seeking the above prayers. Since he died during the pendency of the same, his brothers were impleaded as his legal heirs.

3.The case of the petitioners is that the above said Seyed Abdul Khadir was the owner of the property bearing New Door No.163, T.T.K. Road, Alwarpet, Chennai. Based on the annual value arrived at by the Corporation of Chennai in respect of the above said property, the Chennai Metropolitan Water Supply and Sewerage Board fixed the Water and Sewerage tax at Rs.9,163/- per half year with effect from II/1999-2000 and he paid the said tax and charges levied by them without any default. While so, on 19.09.2016 a demand notice was issued by the third respondent demanding an arrears of Rs.1,57,419/- with effect from 2/2009-10 after deducting the regular payments. Thereafter, he approached the authorities of the Corporation of Chennai with regard to the so called revision of annual value of the building and half yearly tax with effect from 2/2009-10. As no details were furnished to him, he looked into the matter in the Corporation website and found that the publication of arrears statement is without any basis and the same is illegal. Thereafter, on 04.10.2016, the authorities of the third respondent cautioned him saying that if the arrears due to them are not remitted immediately, the water and sewerage lines will be disconnected within three days. While so, without issuing any notice, the respondents have issued the impugned demand-cum-notice for disconnection of water and sewerage connection dated 19.09.2016 and the impugned statement showing increased property tax with arrears dated 04.10.2016. Hence, the petitioners are before this Court.

4.The learned counsel appearing for the petitioners submitted that the action of the respondents in making illegal demand of tax and consequent attempt to disconnect the water and sewerage lines are unjust and arbitrary. He would further submit that the same are issued without any notice to the petitioners.

5.The learned Standing Counsel appearing for the Corporation of Chennai submitted that the contention made by the petitioners that they were not put on notice before enhancing the property tax is wholly unjustifiable, since they were issued with a revised notification dated 06.04.2016.

6.In reply, the learned counsel appearing for the petitioners denied the receipt of notice.

7.However, as the revised assessment notice was issued on 06.04.2016, this Court hereby directs the petitioners to give their reply or objections on the said notice dated 06.04.2016 to the Corporation of Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the Corporation of Chennai shall consider and pass appropriate orders. If the petitioners are aggrieved by the final order to be passed by the Corporation of Chennai, it is for them to approach the Tax Appellate Tribunal.

8.The learned counsel appearing for the Corporation of Chennai submitted that the petitioners are not paying the property tax from 2016. IN view of the said submission, this Court hereby directs the petitioners to pay the pre-revised property tax till the final orders are passed by the Appellate Tribunal.

9.It is made clear that once the final order is passed, the petitioners are duty bound to comply with the said order. After exhausting the appeal remedy, the petitioners are directed to clear all the arrears from 2016 till now.

10.With the above observation, the writ petitions are disposed of. Consequently, connected W.M.Ps. are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vga

To

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

2. The Assistant Revenue Officer,
Corporation of Chennai,
Zone-09, Division-123,
No.4, 4th Cross Street, Lake View Road,
Chennai-600 034.

3. The Chairman-cum-Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chennai-600 002.

4. The Assistant Engineer/Junior Engineer,
Chennai Metropolitan Water Supply and
Sewerage Board, Area-9, Division-123,
No.31, C.P.Ramasamy Road,
Alwarpet, Chennai-600 018.

+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.79444
+1cc to Mr.A.S.Kaizer, Advocate, S.R.No.79783

Writ Petition Nos.35897 and 35898 of 2016
and W.M.P. Nos.30834 to 30837 of 2016

SSV(CO)
CS/07/01/2019