IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21702 and 21703 of 2012
and
MP Nos.1 and 1 of 2012

P. Usha ... Petitioner in both writ petitions

vs.

1. The Chennai Metropolitan Water Supply and Swerage Board,
   Represented by its Secretary,
   Chennai - 600 002.

2. The Area Engineer VII,
   The Chennai Metropolitan Water Supply and Swerage Board,
   25, Sathyamoorthy Road,
   Chetpet,
   Chennai - 600 031. ... Respondents in W.P.No.21702 of 2012

1. The Corporation of Chennai,
   Represented by its Commissioner,
   Chennai - 600 003.

2. The Assistant Revenue Officer,
   Corporation of Chennai,
   Zone IX, Division No.110,
   4th Street, Lake Area,
   Nungambakkam,
   Chennai - 600 034. ... Respondents in W.P. No.21703 of 2012

Prayer in W.P. No.21702 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, for writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to the impugned Letter No.Ref.CMC No.07/110/0273/W, dated 01.08.2012 and quash the same and further direct the respondents not to initiate any action for the water and swer tax against the petitioner for the period upto first half of 2012-13.

Prayer in W.P. No.21703 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, for writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to the impugned Letter No.Z.O.7/R.D./Spl./2012-13, dated 30.07.2012 and quash the same and further direct the respondents not to initiate any action for property tax against the petitioner for the period upto first half of 2012-13

For Petitioner : Mr.V. Anand
For Respondents
in W.P. No.21702 of 2012 : Mr.N.Ramesh
in W.P. No.21703 of 2012 : Mr.R. Arunmozhi

COMMON ORDER

W.P. No.21703 of 2012

The demand notice issued to the writ petitioner to pay the arrears of property tax in proceedings dated 30.7.2012 is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner contended that the respondents have not followed the procedures contemplated for the purpose of assessment of property tax and further not followed the procedures for enhancing the property tax to be paid by the writ petitioner. Various contentions are raised by the writ petitioner in respect of non adherence of the procedures to be followed by the competent authority for assessment of the property tax and further by disputing the quantum of property tax fixed.

3. Considering the arguments, this Court passed an order on 07.09.2018, which is as follows :-

".....

(1) The officials of Corporation of Chennai is directed to measure the property belongs to the writ petitioner situated at No.758, Anna Salai, Chennai, by tomorrow (08.09.2018) at 11.00 a.m.

(2) The writ petitioner or her representative is directed to co-operate with the Officials of Corporation of Chennai for the measurement of the entire property.

(3) The writ petitioner or her representative is allowed to be present during the measurement to be taken by the Officials of Chennai Corporation.

(4) During the measurement, if necessary, the Officials of Corporation of Chennai shall get the assistance of the local Police Station who in turn shall provide Policemen for the purpose of providing

protection to the Officials of Chennai Corporation.

(5) The Officials of Corporation of Chennai, on completion of the entire measurement, is directed to assess the property tax on par with the property tax done in similar cases.

(6) The Officials of Corporation of Chennai is directed to serve a copy of the assessment to the writ petitioner or to the authorized representative of the writ petitioner on 08.09.2018 itself."

Pursuant to the orders, the officials of Chennai Corporation, on 08.09.2018, inspected the entire building belongs to the writ petitioner, took measurements and prepared the final assessment order in respect of the petitioner's premises. The said final assessment order has been now produced before this Court, which contains the extent of the constructed area and all other details in respect of the property belongs to the writ petitioner. Accordingly, the writ petitioner is now liable to pay the arrears of property tax amount of Rs.56,85,157/-. The final assessment order was passed in the presence of the writ petitioner and their representatives. Opportunities were given at the time of taking measurements of the entire building and the same was done with the consent and co-operation of the writ petitioner. This being the factum of the case, now the writ petitioner cannot question the extent of construction and other details in respect of the property.

4. The learned counsel for the writ petitioner even now raised a point that the writ petitioner has got certain objections in respect of the amount due which was calculated. Even, if there is any discrepancy in respect of the method of calculation done by the officials, the same can be sorted out later on. If there is any excess payment the same can be adjusted towards future property tax and therefore, the writ petitioner cannot now raise a point in respect of the calculation or otherwise. Even, if any, such discrepancy that can be sorted out by the writ petitioner by approaching the authorities of Chennai Corporation and in the event of any excess recovery of property tax, the same shall be adjusted towards the future property tax to be paid.

5. Payment of property tax can never be evaded or avoided by the citizens. When the property tax and other statutory charges are not paid by the citizens, it is to be construed that they are infringing the rights of all other citizens residing within the jurisdiction of Chennai Corporation. When common amenities,

infrastructure facilities and other benefits are provided to the citizens from and out of the tax payers money then denial of payment, delay of payment or otherwise is to be construed as infringement of the rights of all other tax payers, who are all paying their property tax promptly and within the time limit stipulated in this regard by the authorities.

6. When the persons like the writ petitioners are enjoying the common facilities, infrastructures and amenities in the city at the cost of others then they should shy about the same and every citizens in this regard should have a conscious that they are enjoying such facilities at other costs. If such a feeling is exposed then the citizens who are liable to pay the property tax and other statutory charges have to pay the same within the time limit prescribed. This being the principles to be followed, this Court is of an opinion that there cannot be any leniency or misplaced sympathy in respect of payment of tax to the State and the local bodies. Undoubtedly, on certain grounds they are raising disputes. No doubt, they are entitled to raise such disputes, even while raising such disputes, the tax payers are liable to pay tax in a routine manner and disputes shall be resolved by following the procedures contemplated under law. However, under the guise of the pendency of a writ petition or a pendency of an appeal before the authority, the entire payment can never deferred by the tax payers. Such an attitude to be deprecated. Subject to the appeal or subject to the writ petition, the tax payers are at liberty to pay the tax. However that is not done in most of the cases, where the writ petitions are filed. The attitude of the persons are to raise certain litigations and thereafter avoid and evade payment of tax to the State as well as to the local bodies. In this view of the matter such writ petitions filed in order to evade the tax payment can never be delayed nor be entertained in a routine manner. Such cases are to be decided at the first instance. Atleast the tax payers must be directed to pay the tax, subject to the final outcome in the writ petition. Under these circumstances a balancing and pragmatic approach is required in order to see that the welfare measures and the welfare schemes to be introduced by the State and local bodies get never delayed or paralyzed. Thus, the writ petitioner is liable to pay the assessed tax as per the final assessment order now submitted before this Court, which was done pursuant to the orders of this Court passed on 07.09.2018. Accordingly, the following orders are passed :

a) The relief as such sought for in the present writ petition stands rejected;

b) The writ petitioner is directed to pay the arrears of the property tax amount of Rs.56,85,157/- within a period of four weeks from the date of receipt of a copy of this order;

c) In the event of not paying the arrears of property tax stipulated above, the respondents are directed to initiate all further actions against the writ petitioner and the property by following the procedures contemplated under law and

d) The writ petitioner in respect of any discrepancy shall approach the authorities for calculation or re-calculation so as to resolve the same.

WP No.21702 of 2013

7. The demand letter dated 01.08.2012 in respect of the payment of arrears of water and Sewarage charges to be paid to the Chennai Metropolitan Water and Sewarage Board is under challenge in this writ petition. The grounds raised in this writ petition relates to the grounds raised in the other writ petition filed by the very same writ petitioner in W.P. No.21703 of 2012. In the said the writ petition, the writ petitioner had challenged the demand notice issued by the Chennai Corporation in respect of payment of the property tax. However, pursuant to the orders of this Court, a fresh final assessment of property tax was made and the order was passed by the Chennai Corporation. Accordingly, the directions were issued to pay the arrears of property tax by the writ petitioner.

8. The water and Sewarage charges are to be assessed based on the property tax assessment made by the Chenani Corporation. Thus, the respondents in this writ petition are directed to assess the arrears of water and Sewarage charges to be paid to the Chennai Metropolitan Water supply and Sewarage Board based on the final assessment now issued to the writ petitioner in proceedings dated 08.08.2018 and accordingly issue an order in order to pay the arrears of water and Sewarage charges. The said exercise is to be done by the respondents within a period of one week from the date of receipt of a copy of this order. The respondents on assessment shall communicate the same by way of an order to the writ petitioner. On receipt of the final assessment order to be issued by the respondent board the writ petitioner is directed to pay the arrears of Water and Sewarage charges within a period of four weeks from the date of receipt of final order from the respondents. In the event of not paying the assessed arrears of water and Sewarage charges, the respondents are directed to initiate all further actions by following the procedures contemplated under law within a period of four weeks thereafter.

9. Accordingly, these writ petitions stand disposed of in the terms indicated above. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi2/pkn

To

1. The Chennai Metropolitan Water Supply and
   Swerage Board,
   Represented by its Secretary,
   Chennai - 600 002.

2. The Area Engineer VII,
   The Chennai Metropolitan Water Supply and
   Swerage Board,
   25, Sathyamoorthy Road,
   Chetpet,
   Chennai - 600 031.

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

4. The Assistant Revenue Officer,
   Corporation of Chennai,
   Zone IX, Division No.110,
   4th Street, Lake Area,
   Nungambakkam,
   Chennai - 600 034.

+1cc to Mr.V.Anand, Advocate sr.no.63142
+1cc to Mr.R.Arunmozhi, Advocate sr.no.62471
+1cc to Mr.N.Ramesh, Advocate sr.no.63089

W.P.Nos.21702 and 21703 of 2012

nr 30/10/2018