

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM :

THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.No.19680 of 2009
and
M.P.Nos.1 of 2009 & 1 of 2010

M/s. Foundation Garments Private Limited
Rep. by its Managing Director,
Anne Marie Canthasamy,
F-56, Plot 203, Divine Grace,
Annanagar, Chennai - 600 102. Petitioner

Vs.

1. The Corporation of Chennai,
Rep. by the Commissioner,
Ripon Building, Chennai - 600 002.
2. The Assistant Revenue Officer,
Zone IX, Corporation of Chennai,
Saidapet, Chennai - 600 015. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the respondents 1 and 2 in connection with the impugned proceedings final warrant notice bearing reference No.br/kmt/J//rpgw;g[/2009?10 dated 10.09.09 enclosed with the letter of the second respondent bearing reference No.IX/R.D./C.No./SPL/09 dated 10.09.2009 issued to the petitioner and quash the same.

For Petitioner : Ms.R.Aarthi
For Respondents : Mrs.Karthikaa Ashok

O R D E R

The final warrant notice issued by the Assistant Revenue Officer, Corporation of Chennai, in Proceedings dated 10.09.2009 is under challenge in this writ petition.

2. The writ petitioner is a defaulter in respect of the payment of property tax to the Corporation of Chennai. It is stated that the petitioner company was started by the father of the writ petitioner in the year 1970, at No.A3 & A4, Industrial Estate, Guindy, Chennai - 600 032. The petitioner was running the business of manufacturing and exporting of readymade garments. After the demise of the father of the

writ petitioner, the company became sick. The petitioner states that on account of sudden death of his father, the family was unable to maintain the company and therefore, the family started settling various debts of the company. The petitioner leased out the factory premises and is collecting rent to meet out the demands of the creditors, every month.

3. This Court is of an opinion that those factors need not be considered at this point of time, in view of the fact that even during the year 2009, they have not paid the property tax properly. As per the impugned demand notice the property tax arrears due is for a sum of Rs.14,85,185/- and now after the lapse of about nine years, the property tax arrears due to be paid by the writ petitioner as of now is Rs.19,94,353/-. Thus, the petitioner is a continuous defaulter and has not paid the property tax arrears to the Corporation of Chennai.

4. As per the provisions of the Chennai City Municipal Corporation Act, 1919, the owner or the occupier of the premises are liable to pay the property tax to the Corporation. The petitioner admits that the said premises was leased out to some third party and they are collecting rent. In such event, either the owner or the occupier of the premises are liable to pay the property tax to the Corporation of Chennai.

5. In this view of the matter, this Court is of an opinion that there cannot be any leniency in payment of property tax, as the writ petitioner is also enjoying all the common amenities and infrastructure facilities provided by the Corporation of Chennai for the benefit of public at large. Non payment of property tax to the Corporation of Chennai is to be construed as an infringement caused to other citizen. However, dutiful citizen who are all paying the property tax to the Corporation properly are insulted by the few persons who are not paying the property tax within the time stipulated. When the Corporation of Chennai is providing common infrastructure facilities, amenities and other facilities to the citizen residing within the jurisdiction of Chennai city, it is mandatory on the part of the citizen to pay the property tax punctually. Rights and duties are corresponding terms. Only in the event of performing duties, the citizen can claim rights.

6. The lis on hand is one such case where few greedy people are infringing the rights of the citizen at large. This Court has made an attempt to minimise the infringement and damage caused on account of the greediness of few men. Equal protection of the fundamental rights of all other citizen, in general, is also a constitutional duty of the Constitutional Courts. If any infringement causes violation of the fundamental rights of other citizen at large, then the Court must ensure that the social justice, equality of rights of all

citizen are protected. Thus, in this view of the matter, the payment of property tax, being a revenue to the state, the same can never be avoided or evaded by a citizen.

7. This apart, the present writ petition has been filed in the year 2009. Even for the past 7 ½ years, the writ petitioner has not paid the property tax punctually. The last payment towards property tax was made in the year 2011. Thereafter, for the past 7 ½ years, the writ petitioner is not paying the property tax to the Corporation of Chennai. Thus, the petitioner is a chronic defaulter of payment of property tax. Hence, there cannot be any leniency in respect of initiating action against the writ petitioner to recover the property tax arrears.

8. This being the factum of the case, the following orders are passed.

- i. The relief as such sought for in the present writ petition stands rejected.
- ii. The writ petitioner is directed to pay the arrears of property tax amount of Rs.19,94,353/- within a period of four weeks from the date of receipt of a copy of this order.
- iii. In the event the petitioner failing to pay the property tax arrears within the time stipulated above, the respondent Corporation is directed to initiate all further action to recover the property tax arrears, by following the procedures as contemplated under law.
- iv. The writ petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

v.

mkn

Sd/-

Assistant Registrar (CS-VIII)

// True Copy// सत्यमेव जयते

Sub Assistant Registrar

To

1. The Commissioner,
The Corporation of Chennai,
Ripon Building, Chennai - 600 002.
2. The Assistant Revenue Officer,
Zone IX, Corporation of Chennai,
Saidapet, Chennai - 600 015.

+ 1 CC TO Mrs.A.KARTHIKA ASHOK, ADVOCATE SR 63525

KR/10/10/18

<https://hcservices.ecourts.gov.in/hcservices/>

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