IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.09.2018

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.44362 of 2016
and
W.M.P.No.38240 of 2016

Taj & Company,
Rep.by its Partner,
Nitin C.Bavishi
462, Mint Street, Chennai 600 079. .. Petitioner

vs

1. The Commissioner,
   Corporation of Chennai,
   Rippon Building,
   E.V.R.Periyar Salai, Periyamet,
   Chennai - 600 003.

2. The Revenue Officer,
   Corporation of Chennai,
   Zone V, Division 54,
   Basin Bridge Road,
   Chennai - 600 021.

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

4. The Special Thasildar,
   Revenue Recovery Area - V,
   Chennai Metropolitan Water Supply
   and Sewerage Board,
   No.1, M.C.Road,
   Chennai - 600 021.

5. The Area Engineer - V,
   Chennai Metropolitan Water Supply
   and Sewerage Board,
   No.1, M.C.Road,
   Chennai - 600 021.

6. Hasmukh O.Jain

7. Sanjay Kumar O.Jain

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 5, not to seal the premises under the occupation of the petitioner pursuant to their notices dated 13.06.2016 and 18.10.2016 and to follow the well prescribed laws and procedures.

For Petitioner : Mr.Sandeep
for M/s.Shah and Shah

For Respondents : Mr.T.C.Gopala Krishnan
for R1 & R2

Mr.N.Ramesh for R3 to R5

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 to 5 not to seal the premises under the occupation of the petitioner, pursuant to their notices dated 13.06.2016 and 18.10.2016 and to follow the well prescribed laws and procedures.

2. The learned counsel for the writ petitioner states that the petitioner is a tenant and the respondents 6 and 7 are the owners of the property. The writ petitioner is continuing as a tenant. The grievances of the writ petitioner is that the land lord is not paying the property tax to the Corporation within the time stipulated. Thus, the tenant is put under prejudice. The land lord is adopting the tactics against the tenant in order to vacate the tenant from the premises. Thus, the Corporation officials ought to have initiated action against the land lord, instead of insisting the tenant to pay the Property Tax. At the outset, the contention of the writ petitioner is that the payment of Property Tax is the liability of the land lord and the land lord is not paying the Property Tax properly and the writ petitioner is under unnecessary threat. Thus, the Corporation officials ought to have initiated action against the respondents 6 and 7.

3. The learned counsel for the respondents 1 to 5 opposed the contentions raised on behalf of the writ petitioner, by stating that the owner or the occupier of the premises are liable to pay the Property Tax. Schedule-4 of Rule 29 of the Chennai City Municipal Corporation Act, 1919, states that

> "if the tax due on account of any building or land remains unpaid in whole or in part at the end of the period in sub-rule (1) of rule 21, the Commissioner may if the said tax has not remained unpaid for more than twelve months require the occupier for the time being of such building or land to pay the amount

within a specified period not being less than fifteen days and if the occupier fails to comply with such requisition, the commissioner may distrain and sell any movable property found on the building or land and the provisions of the foregoing rule shall mutatis mutandis apply to all distraints and sales effected under this rule".

4. Thus, it is made clear that an occupier of the premises is also responsible and liable to pay the Property Tax and in the event of failure, the Commissioner of the Corporation is empowered to initiate all further action to realize the tax dues payable to the Corporation.

5. The learned counsel for the Corporation of Chennai, further emphasized that the dispute between the land lord and tenant will not preclude the officials from recovering the Property Tax due, which is statutory in nature. Thus, the writ petitioner cannot avoid or evade the payment of Property Tax on a flimsy ground that disputes are going on between the land lord and writ petitioner, who is the tenant.

6. Learned counsel appearing on behalf of the Chennai Metropolitan Water Supply and Sewerage Board also contended that the arrears of water tax and sewerage charges are also not paid by the writ petitioner and as of now, the arrears of water tax and sewerage charges to be paid by the writ petitioner is Rs.49,318/-.

7. This Court is of an opinion that the writ petitioner claims that he is not liable to pay the Property Tax arrears due. Contrarily, it is contended that the land lord is liable to pay. It is further stated that the land lord is adopting the tactics by not paying the Property Tax to the Corporation, so as to harass the writ petitioner. This apart, the water tax and sewerage charges due to the Chennai Metropolitan Water Supply and Sewerage Board has also not been cleared by the tenant as well as by the land lord. It is painful to pen down that the citizens are avoiding and evading payment of tax by raising such disputes. The disputes prevailing between the land lord and tenant will not create a ground for the occupier to evade the payment of Property Tax. The Act as stated above, enumerates that the owner or the occupier is responsible to pay the Property Tax to the Corporation. The law does not differentiate the owner or the occupier, anybody who is in occupation of the premises or who claims to be the owner of the premises is liable to pay Property Tax to the Corporation. Contrarily, by raising the ground that disputes are going on between the tenant and land lord, few persons are avoiding payment of Property Tax. Such an action of the non-tax payers are to be deprecated and this Court cannot encourage the attitude of such people, who are developing a mind set not to pay Property Tax by citing all such flimsy reasons.

8. It is contented that the writ petitioner is being harassed by the land lord as well as by the officials of the Corporation of Chennai. Demanding the arrears of Property Tax by the officials can never be construed as a harassment. Every citizen is duty bound to pay the arrears of Property Tax due, within the time stipulated in the Rules.

9. All citizens are enjoying the common amenities and infrastructure facilities provided by the Corporation for the usage of the common man. When the writ petitioner is also using all such infrastructure and amenities provided in common for all the citizens, he is equally duty bound to pay the Property Tax. Enjoying all the common amenities provided by the Corporation and not paying the Property Tax is to be construed as that the writ petitioner is infringing the rights of all other citizens. It is, as if the petitioner is allowed to enjoy the common amenities and infrastructure at the cost all other tax payers who are promptly paying the Property Tax. Thus, the writ petitioner is violating the constitutional rights of other citizens and such an attitude can never be encouraged by the Court. If the tenant, who is in occupation of the premises refuses to pay the Property Tax, then such a submission made by the tenant can never and ever be accepted and the Property Tax dues are to be deposited to the Corporation, either by the land lord or by the tenant and in the event of non payment, the Corporation is empowered to initiate all further actions by following the procedures as contemplated under law, against the properties.

10. Thus, the writ petitioner has not established any acceptable grounds for the purpose of considering the relief, as such sought for in this writ petition. Accordingly, the following orders are passed:

1. The relief as such sought for in the present writ petition stands rejected.
2. The writ petitioner is directed to pay the arrears of Property Tax amounting to Rs.1,39,856/- within a period of four weeks from the date of receipt of a copy of this order.
3. The writ petitioner is directed to pay the arrears of water tax and sewerage charges amounting to Rs.49,318/- within a period of four weeks from the date of receipt of a copy of this order.
4. In the event of non payment of the above taxes to the Corporation of Chennai and to the Chennai Metropolitan Water Supply and Sewerage Board, the Respondents are directed to initiate all further actions against the writ petitioner, as well as the premises, under the occupation of the writ petitioner by following the procedures contemplated under law.

With the above observations, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

pns/mkn   Sd/-
                                          Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

TO

1. The Commissioner,
   Corporation of Chennai,
   Rippon Building,
   E.V.R.Periyar Salai, Periyamet,
   Chennai - 600 003.

+1cc to Mr.T.C.Gopala Krishnan, Advocate S.R.No.62833
+1cc to Mr.N.Ramesh, Advocate S.R.No.63090
+1cc to M/s.Shah & Shah Advocate S.R.No.63193

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