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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.10297 to 10306 of 2015
and M.P.Nos. 1 and 2 of 2015 (in all W.Ps.)

K.M.Zareen Beevi ...Petitioner in all W.Ps.

Vs.

1. The Chennai Metropolitan
Water Supply and Sewerage Board,
Represented by its Chairman,
No.1, Pumping Station Road,
Chindadripet, Chennai
2. The Area Engineer,
The Chennai Metropolitan
Water Supply and sewerage Board,
New Area 10 Office,
No.9, Muthukrishnan Street,
T.Nagar, Chennai -17.
3. The Special Tahsildar,
The Chennai Metropolitan
Water Supply and sewerage Board
Area 10, No.9, Muthukrishnan Street,
T.Nagar, Chennai - 17. ... Respondents in all W.Ps.

Prayer in all W.Ps.: PETITIONs filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the 3rd respondent dated 20.03.2015 and 25.03.2015 in CMC.Nos.10/136/4974/000, 10/136/04973/000, 10/136/04989/000, 10/136/04985/000, 10/136/04971/000, 10/136/05030/000, 10/136/04994/000,



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10/136/05017/000, 10/136/05016/000 and 10/136/04970/000
respectively and quash the same.

For Petitioner : Mr. N.A.Nissar Ahmed
[in all W.Ps]

For Respondents : Mr.M. Jothikumar
[in all W.Ps.] Standing Counsel

C O M M O N O R D E R

W.P.Nos.10297 to 10306 of 2015:

The petitioner in all these writ petitions is an individual, her husband being the owner of shops bearing Nos. 24, 26, 29, 30, 31 in Old Door No.3, New No.4 Prakasam Road, T.Nagar, Chennai - 17 (in short, property/property in question).

2. According to the petitioner there is no water connection to the property in question. Out of the blue, she received a notice dated 16.3.2015 issued in terms of Section 62 (2) of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 (in short, Act) calling upon her to remit water and sewerage tax as well as charges from the first half of 1993 to the second half of 2014.

3. The petitioner was granted seven days time to remit the amount under threat of disconnection/Civil suit/Distrain proceedings.

4. On the heels of the aforesaid communication and even before the expiry of the aforesaid period of seven days, a notice dated 20.03.2015 was received informing the petitioner that various amounts were due as arrears of tax and calling upon her to pay the outstanding amount at the earliest. This was followed by a Demand Notice under Section 7 of the Act in Form I restraining the petitioner from alienating the immovable property on the ground of outstanding arrears of tax and



charges. This Court, vide order dated 09.04.2018 had granted a stay of distraint proceedings upon payment of 25% of the disputed demand and this order, according to learned counsel for the petitioner, has been complied with.

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5. It is evident that de hors the challenge to the merits of the demand raised, there has been gross violation of principles of natural justice as well. Admittedly, no notice/show cause notice has been issued prior to passing of the order of assessment in the absence of which, the impugned assessment in effect raises an arbitrary demand.

6. One of the contentions raised by the respondents in the counter is that a common water connection and a common sewerage connection have been given to the block of apartments comprising the 24 residential flats and 35 commercial shops, in the property in question.

7. The petitioner denies the same responding that the connection was, if at all, dormant and there is, in fact no water that is being supplied. Moreover, they deny the existence of a sewerage connection as the residents of the property in question are stated to have made their own arrangement of putting in place a septic tank for this purpose. These are questions of fact and will have to be determined in the course of the enquiry that I am about to order.

8. As regards the basis of computation of the tax, learned counsel for the respondents states that the levy is correct insofar as it is based on the property tax imposed. Be that as it may, it is incumbent upon the respondents, to have supplied the petitioner/assessee with the basis of computation and all materials based on which the impugned demands are raised and an opportunity thereafter to rebut the same, prior to raising the demands. This, admittedly, has not been done in the present case.

9. In the light of the discussion as above, the impugned distraint proceedings in relation to the demands raised on 20.3.2015 and 25.3.2015 are set aside. The petitioner shall appear before the 3rd respondent on Monday, 09.12.2019 without expecting any further notice in this regard, along with her



written submissions in regard to the demands raised. After hearing the petitioner and considering the submissions put forth, speaking orders of assessment shall be passed by the respondents within a period of four(4) weeks from date of conclusion of the personal hearing.

10. Any consequent demands shall be raised after giving credit to the pre-deposit already effected by the petitioner upon directions of this Court.

All writ petitions are allowed in the aforesaid terms. No costs. Connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman
The Chennai Metropolitan
Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chindadripet, Chennai
2. The Area Engineer,
The Chennai Metropolitan
Water Supply and sewerage Board,
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3. The Special Tahsildar,
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+1 cc to M/s.N.A.Nissar Ahmed Advocate sr98257

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