IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 14.06.2019

CORAM
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.3857 of 2010
and
M.P.No.1 of 2010

Maurice C.P.Devakaram .. Petitioner

Versus

1. State of Tamil Nadu
represented by its
Secretary to Government
Municipal Administration and
Water Supply Department
Fort St. George
Chennai - 9.

2. The Revenue Officer
Revenue Department
Corporation of Chennai
Chennai.

3. S.Amalraj .. Respondents

Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 1st and 2nd respondents from bringing the property situated at Door No.4, New No.7, Mullai Street, Gandhi Nagar, Saligramam, Chennai-93, including the movables for attachment.

For Petitioner : Mrs.M.Malar

For Respondent-1 : Mr.R.P.Prathap Singh
Government Advocate

For Respondent-2 : Mr.T.C.Gopalakrishnan

Respondent -3 : Dismissed Vide Court Order
dated 11.01.2012

ORDER

The petitioner has prayed for issuance of Writ of Mandamus forbearing the first and second respondents from bringing the property situated at Door No.4, New No.7, Mullai Street, Gandhi

Nagar, Saligramam, Chennai-93, including the movables for attachment.

2. The case of the petitioner is that he is residing along with his family in the above mentioned address for the past 10 years and doing computer assembling and servicing business. He became a tenant in the said premises for a monthly rent of Rs.3,000/- and had paid Rs.30,000/- as an advance amount to the third respondent herein. Later, after some time, the third respondent had taken an advance of Rs.4,00,000/- from the petitioner for repayment of his loans, which he had borrowed to develop his business. Since the petitioner do not have such huge amount available, he had paid only Rs.1,00,000/- and had entered into lease agreement with the third respondent on 15.09.2001. Since the third respondent was demanding more money for staying in the said premises, the petitioner had filed O.S.No.6318 of 2003 before the I Assistant Judge, City Civil Court, Chennai, for restraining the third respondent from interfering with the peaceful possession and enjoyment of the petitioner at the above said premises and the suit was decreed on 28.08.2004. The petitioner had spent huge amount of Rs.10,00,000/- for renovating the said house, due to the flooding of rain water, which flow into the streets and the premises at the time of rainy seasons. The petitioner further submits that the third respondent was in due of property tax to the second respondent, to the tune of Rs.3,08,100/-. The third respondent has not informed the same to the petitioner. But the petitioner, after the demand, without prejudice, had paid a sum of Rs.1,07,835/- to the second respondent on 05.02.2010. The first and second respondent, for arrears of property tax had tried to attach the movable properties of the petitioner from the above said premises. The third respondent, who is the owner of the building, is a defaulter from paying property tax. But the first and second respondents, who had come to the premises, were ready to attach the movable properties of the petitioner from the above said premises. The petitioner submitted that he has established his business in the said premises and his children are studying in the nearby area and hence he filed this Writ Petition against the demand notice issued by the second respondent.

3. A counter affidavit was filed by the second respondent/Revenue Officer, Corporation of Chennai, who had submitted that the above said premises, 7/4, Mullai Street, Gandhi Nagar, Saligramam, Chennai-93, earlier came under Zone-8, Division 129, but after the expansion of Chennai City during October 2011, it has been merged with Zone-10, Division-129 of Greater Chennai Corporation. He further submitted that the building consists of Ground, 1st and 2nd Floor, built-up area of the ground floor is 2600 sq.ft., first floor is 1900 sq.ft., second floor is 900 sq.ft. Ground floor has been used for non-

residential purpose and the first floor is also a non-residential used by the petitioner as tenant and in the second floor, the third respondent/owner is residing and used as residential. The learned counsel would further contend that originally the tax was levied at Rs.2,382/- for half-yearly and subsequently, for the second year 1998-99, it was enhanced to Rs.15,404/- per half-year and now, after the present general revision of property tax in 2018, the half-year tax was fixed at Rs.34,185/- with effect from 1/2018 - 2019. The learned counsel would further contend that for the said premises, property tax is in arrears of Rs.5,49,300/- as on date. As per the part 1(A) Rule 3(2) of Chennai City Metropolitan Corporation Act (CCMC Act), 1919, the property tax has to be paid either by the owner or occupier of the said premises. Whereas, for this building, arrears of property tax had been accumulated to Rs.5,49,300/- and which is causing a huge revenue loss to the Corporation Exchequer. He would further submit that neither the building owner nor the occupier, the petitioner, herein have not paid the arrears of tax from the year 2003-2004 (second half).

4. The petitioner's counsel would submit that the petitioner has already paid certain amount, which has not been taken into account by the Corporation. The learned counsel for the Corporation submitted that the amount already paid by the petitioner ie., Rs.1,07,835/- has been taken into account and after minusing the same only, the arrears amount is calculated.

5. Heard both the counsel and perused the materials available on record.

6. It is seen that the petitioner, who is a tenant under the third respondent, has entered into a lease agreement and also obtained an exparte order/decree, wherein the defendant, the third respondent herein, his agents, servants, subordinates or anyone acting on behalf of him or through him were restrained by way of permanent injunction from in any manner interfering with the plaintiff's/petitioner's peaceful possession and enjoyment of the house, bearing New No.4, Mullai Street, Gandhi Nagar, Saligramam. Hence, it is clear that the third respondent is not interfering with the petitioner's occupation and the petitioner is carrying on his business in the above said premises.

7. It is clear from rule position that either the owner or the occupier of the said premises have to pay the property tax. After challenging the demand, the petitioner had already paid a sum of Rs.1,07,835/- and a receipt has been filed before this Court. The petitioner also agrees to pay the arrears of tax amount due and seeks further time for payment. Hence, this Court, after hearing the parties, directs the petitioner to pay the arrears of said property tax due within a period of 12 weeks

from the date of receipt of a copy of this order, failing which, the respondent Corporation is at liberty to proceed further as per law. The second respondent/Corporation of Chennai, is directed to calculate the amount due after taking into account the amount already paid by the petitioner and pass appropriate demand, afresh.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

Mra

To

1.The Secretary to Government,
State of Tamil Nadu
Municipal Administration and
Water Supply Department
Fort St. George
Chennai - 9.

2.The Revenue Officer
Revenue Department
Corporation of Chennai
Chennai.

+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.48521
+1cc to the Government Pleader, S.R.No.49143
+1cc to M/s.Malar, Advocate, S.R.No.48791

Writ Petition No. 3857 of 2010
and
M.P.No.1 of 2010

BR(CO)

RRS(22/07/2019)