

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.10321 of 2018  
and  
W.M.P.Nos.12254 of 2018

1.Ramamani  
2.V.Suresh Kumar  
3.V.Selvakumar  
Vs. ... Petitioners

1.The Commissioner,  
Salem Municipal Corporation,  
Salem - 636 001.  
2.The Assistant Commissioner,  
Salem Municipal Corporation,  
Hasthampatti Ward,  
Salem - 636 007. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating tot he Notice dated 06.06.2017 passed in Na.Ka.No.J10/3242/2017 on the file of the second respondent herein and to quash the same, in respect to the Assessment Nos.2018990, 2018959 and No.2018960, to the building bearing Door No.45, Dr.Subbarayan Road, Salem - 636 001.

For Petitioners : Mr.Elizabeth Ravi  
For Respondents : Ms.K.Bhuvaneswari

O R D E R

The writ petitioner challenges the demand of water charges raised under notice dated 06.06.2017, issued by the Assistant Commissioner, Salem Municipal Corporation in respect of building bearing door no.45, Dr.Subbarayan Road, Salem - 636 001.

2.Heard Mr.Elizabeth Ravi, learned counsel for the petitioner and Ms.K.Bhuvaneswari, learned counsel for the respondent.

3. The petitioner does not challenge the quantification of the demand made per se, insofar as it relates to the periods 2015-16 and 2016-17 on the enhanced basis. The sole ground agitated is that no demand could have been raised for the prior periods. For this, she relies on a resolution passed by the Salem Municipal Corporation bearing no.125 dated 19.08.2015. The resolution, after setting out the background in relation to the provision of drinking water for the increasing population and

bearing in mind further increase in population going forward, has proposed an escalation of water charges and caution deposit. This escalation has been made in a reasoned manner and has rightly not been challenged by the petitioner. However, a reading of the resolution makes it apparent that the implementation thereof is only from 01.10.2015. The relevant part of the resolution, in translated form is extracted below:

"As per the increasing population in future, keeping the basic necessity of Drinking Water distribution in mind, in order to compensate the maintenance charges for Separate Drinking Water Scheme and to get several Planning Works from Government and to lead the functions of Municipal Corporation in progressive path, and to implement the Smart City Plan of Central Government, and to increase the Funds of Municipal Corporation, the following Water Charges and the Caution Deposit amounts, which are being calculated as per the present procedure of calculating as per Meter Reading, for water connections, with respect to non-residential purpose, which was implemented from 01.01.2007 onwards, as per the Order dated 20.12.2006, passed in B.P.No.115, passed by the Tamil Nadu Water and Sewage Board, Chennai, the proposal for fixing by the Salem Corporation and the implementation of enhanced rate from 01.10.2015 onwards, are kept before the Committee for reference and decision"

3. Though a counter has been filed by the respondents, such counter would in fact, support only the stand of the petitioner since the Salem City Commissioner, Corporation of Salem at paragraph no. 7 of the counter confirms the position that the enhancement has been made w.e.f. 01.10.2015. This supports the case of the petitioner to the effect that no demand can be raised for the earlier period. The relevant paragraph in the counter is extracted hereunder:

"The respondents further submit that after the Council's Resolution the public were put on notice with sufficient time and had been made known. More so, the enhancement w.e.f. 01.10.2015 came to be made for utilization of commercial purposes and the domestic water charges had not been enhanced. In the case on hand, the premises of the petitioners fall under the commercial zone as the property tax has been fixed at the commercial rates, hence the petitioners cannot evade payment of water tax charges at the enhanced rate."

4. In the light of the admitted position that the resolution dated 19.08.2015 put into effect the enhanced water charges only with effect from 01.10.2015, the demand raised by

the impugned notice dated 06.06.2017, insofar as it relates to the periods 2007-08 to 2014-2015, till 30.09.2015 are quashed.

5.The writ petition is partly allowed in the above terms. Consequently connected miscellaneous petition is closed. No costs.

Sd/-  
Asst. Registrar

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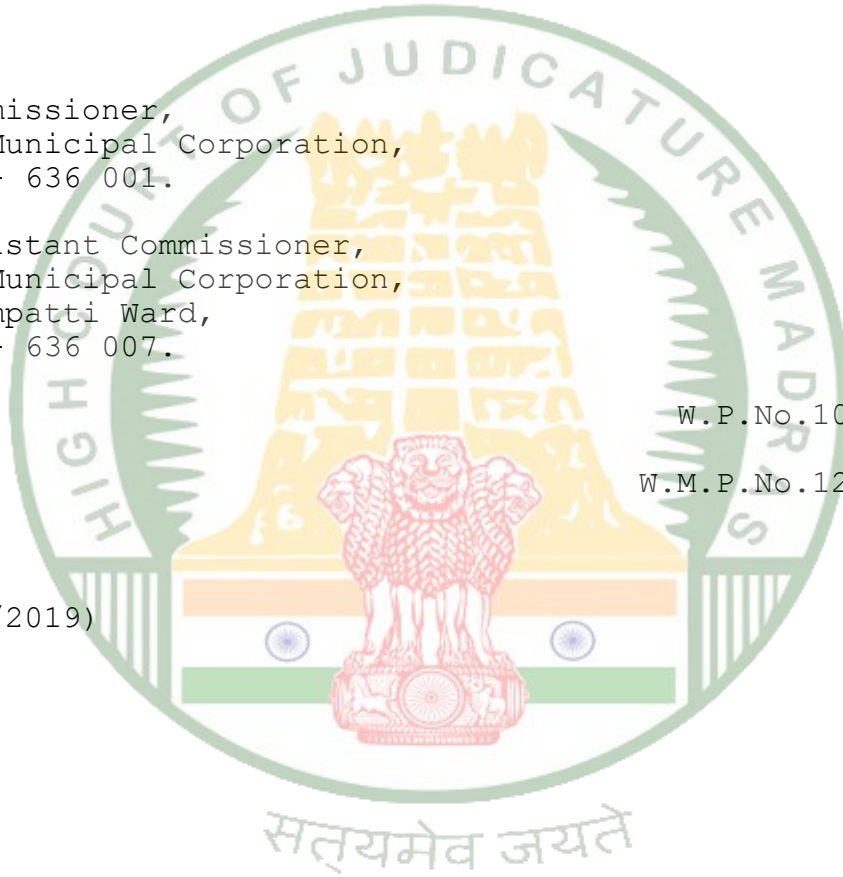
Sub Asst. Registrar

To

- 1.The Commissioner,  
Salem Municipal Corporation,  
Salem - 636 001.
- 2.The Assistant Commissioner,  
Salem Municipal Corporation,  
Hasthampatti Ward,  
Salem - 636 007.

W.P.No.10321 of 2018  
and  
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CO (KJ)  
VC (08/06/2019)



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