

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27-08-2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.5313 of 2019

And

W.M.P.No.6032 of 2019

Ramasamy Pandian

... Petitioner

vs.

- 1.The Chennai Metropolitan Water Supply
and Sewerage Board,
Represented by its Managing Director,
Head Office, No.1, Pumping Station Road,
Chintadripet,
Chennai-600 002.
- 2.The Area Engineer,
Chennai Metropolitan Water Supply and
Sewerage Board,
Area X Office,
No.9, Muthukrishnan Street,
T.Nagar,
Chennai-600 017.
- 3.The Assistant Engineer,
Chennai Metropolitan Water Supply and
Sewerage Board,
Area X Office,
No.9, Muthukrishnan Street,
T.Nagar,
Chennai-600 017.
- 4.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

5.The Assistant Revenue Officer,
Zone-9, Saidapet,
Corporation of Chennai,
Chennai.

(R-4 and R-5 impleaded as per order
dated 21.03.2019 made in WMP
No.7542 in WP 5313 of 2019)

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorarified Mandamus, calling for the records of the third
respondent demand notice in C.M.C. No.10 /140/04066/00 dated
29.01.2019 and quash the same and consequently direct the
respondents to strictly follow the earlier order of this Hon'ble
Court dated 11.09.2018 in W.P.No.21273 of 2009.

For Petitioner : Mr.S.Santhan

For Respondents-1to3: Mr.Manimaran for
Mr.Jothikumar, Standing Counsel
for CMWSSB.

For Respondents-4&5 : Mr.S.Satishkumar for
T.C.Gopalakrishnan, Standing
Counsel for Chennai Corporation.

O R D E R

Mr.S.Santhan, learned counsel on record
for writ petitioner, Mr.Manimaran, learned counsel representing
Mr.Jothikumar, standing Counsel for 'Chennai Metropolitan Water
Supply and Sewerage Board' (CMWSSB for brevity) on behalf of
respondents 1 to 3 and Mr.S. Satishkumar, learned counsel
representing Mr.T.C.Gopalakrishnan, Standing Counsel for Chennai
Corporation on behalf of respondents 4 and 5 are before this
Court.

2. With consent of all the aforesaid
learned counsel, the main writ petition is taken up and is being
disposed of.

3. A demand notice dated 29.01.2019
bearing Reference 'செ.கு.வா. - பகுதி 10 - பணிமனை -/140' (hereinafter
'impugned notice' for brevity) issued by CMWSSB has been called
in question in the instant writ petition. To be noted, reference
of the impugned notice has been erroneously given as 'CMC
No.10/140/04066/00', which is only what has been read in the

impugned notice. Therefore, the reference as given above being ' செ.கு.வா. - பகுதி 10 - பணிமனை -/140ங is the correct reference. There is no disputation or disagreement about this and therefore, reference to impugned notice in this order will be reference to 'notice dated 29.01.2019 bearing reference செ.கு.வா. - பகுதி 10 - பணிமனை -/140',

4. Writ petitioner earlier filed writ petition being WP No.21273 of 2009 and the same came to be disposed of on 11.09.2018. Operative portion of the said order is contained in paragraph-4 therein and the same reads as under:

'4. In view of the above development, the respondents herein are directed to issue a fresh demand notice to the petitioner based on the orders to be passed by the Assistant Revenue Officer, Zone 9, Saidapet, Corporation of Chennai.'

5. Be that as it may, before this Court proceeds further, paragraph-9 of the affidavit filed in support of the instant writ petition is of significance and relevant portion of the same reads as under:

'.....directed the Respondent to restore water and Sewerage connection to the Petitioners property on condition that the Petitioner should pay 50% from demand amount of Rs.2,710/-. Thereafter the Petitioner is regularly paying Rs.1355/- towards the water and Sewerage tax till 17.09.2018.'

6. Reverting to the earlier order made by this Court and operative portion being paragraph-4 thereat, it is submitted by learned counsel for Chennai Corporation, that the fifth respondent (R-5) shall pass orders if not already passed.

7. Be that as it may, orders passed by the fifth respondent (R-5) pursuant to earlier orders of this Court dated 11.09.2018 shall be communicated to the writ petitioner as well as the second respondent (R-2) under Due Acknowledgement, within four weeks from today. After such communication, CMWSSB shall issue a fresh demand notice in tune with the orders of fifth respondent (R-5).

8. As per the aforesaid earlier order of this Court dated 11.09.2018, impugned notice ought not to have been issued before orders are passed by the fifth respondent (R-5). Therefore, the impugned notice is set aside without expressing any opinion on merits of the matter and preserving the rights of CMWSSB to issue demand notice afresh after communication of orders by the fifth respondent (R-5), within four weeks from the

date of receipt of such order in the aforesaid manner. Until such exercise is completed, writ petitioner shall continue to pay in accordance with writ petitioner's averment in paragraph-9 of the affidavit filed in support of the instant writ petition, which has been extracted and reproduced supra.

9. Writ petition stands allowed with the abovesaid directions and preservation of rights as set out above. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
Head Office, No.1, Pumping Station Road,
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- 2.The Area Engineer,
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5.The Assistant Revenue Officer,
Zone-9, Saidapet,
Corporation of Chennai,
Chennai.

+1cc to Mr.S.Santhan, Advocate Sr.74838

W.P.No.5313 of 2019

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srg 28/09/2019