

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.07.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.6803 of 2019

and

WMP Nos.7583 & 7584 of 2019

Lakshmi Shama Bhat Trust
No.34, Police Commissioner Office Road
Egmore, Chennai - 600 008.
Rep. by its Trustee K.Ramaprasad Bhat.

.. Petitioner

Vs.

1.State of Tamil Nadu
Represented by Secretary to Government
Municipal Administration and Water
Supply Department
Secretariat, Fort St. George
Chennai - 600 010.

2.The Commissioner
Greater Chennai Municipal Corporation
Rippon Buildings
Chennai - 600 003.

3.Chennai Metropolitan Water Supply and
Sewerage Board
1, Pumping Station Road
Chintadripet
Chennai 600 002.

4.The Senior Accounts Officer
Chennai Metropolitan Water Supply
and Sewerage Board
1, Madras Chennai Road
Old Washermanpet
Chennai 600 021.

5.Special Tahsildar
Revenue Recovery,
Area (5) CMWSSB, Chennai - 600 021.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records of the 4th respondent comprised in the demand notice dated 30.01.2019 bearing Old CMC No.3962 and the consequent notice dated 07.02.2019 issued by the 5th respondent and all

proceedings pursuant thereto and quash the same as illegal, arbitrary and violative of the principles of natural justice and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Petitioner : Mr.K.Prahalad Bhat
for Mr.R.Parthasarathy

For Respondents : Mr.R.P.Pratap Singh,
Government Advocate for R1

Mr.T.Padma Shalini for
T.C.Gopalakrishnan,
Standing Counsel for R2

Mr.M.Jothi Kumar,
Standing Counsel for R3 to R5.

ORDER

Mr.K.Prahalad Bhat, learned counsel representing the counsel on record for writ petitioner is before this Court. Mr.M.Jothi Kumar, learned Standing Counsel for 'Chennai Metropolitan Water Supply and Sewerage Board' ('CMWSSB' for brevity) i.e., respondent Nos.3 to 5, Ms.T.Padma Shalini, learned counsel representing Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation i.e., respondent No.2 and Mr.R.P.Pratap Singh, learned Government Advocate on behalf of respondent No.1 are before this Court.

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

3. Subject matter of instant writ petition is demand of water and sewerage tax/charges for the property at 'New No.53/Old No.34, Police Commissioner Office Road, Egmore - 600 008' (hereinafter 'said property' for brevity) by CMWSSB, vide a 'demand notice dated 30.01.2019, bearing Reference CMC No.3962' (hereinafter 'impugned demand notice' for the sake of brevity and clarity).

4. Learned counsel for writ petitioner submits that impugned demand notice has been served on the writ petitioner suddenly.

5. Responding to the aforesaid submission of learned counsel for writ petitioner, standing counsel for CMWSSB inter alia adverting to Sections 34(2) and 35(3) of 'The Chennai Metropolitan Water Supply and Sewerage Act, 1978 (Tamil Nadu Act

28 of 1978)', hereinafter 'CMWSSB Act' for brevity, submitted that CMWSSB does not have any independent machinery or mechanism for assessment of annual value of properties. Furthering his submission in this direction, learned counsel submitted that CMWSSB would go by the annual value assessed by the Chennai Corporation for the purpose of levy of property tax and the levy of water and sewerage tax/charges for any property will be a percentage of the annual value so assessed by the Chennai Corporation.

6. It is also submitted that impugned demand notice has been raised based on the assessment of annual value made by Chennai Corporation for said property, for the purposes of levy of property tax.

7. Learned Standing Counsel for Chennai Corporation also confirms that the annual value for said property has been determined.

8. Faced with the above situation, learned counsel for writ petitioner submits that writ petitioner intends to challenge the assessment of annual value for said property by Chennai Corporation. It is open to writ petitioner to challenge the determination of annual value for said property by Chennai Corporation in a manner known to law. Until that is done, there cannot be any compliant or grievance qua impugned demand notice, as the impugned demand notice is only a offshoot of annual value determined by the Chennai Corporation.

9. Therefore, preserving the rights of the writ petitioner to assail the annual value determined or enhanced as the case may be by the Chennai Corporation, instant writ petition is dismissed holding that there is no ground to interfere with the impugned demand notice.

10. Though obvious it is made clear that if the writ petitioner chooses to assail the determination or enhancement of annual value by the Chennai Corporation in a manner known to law, if any orders are passed therein, it will impact the demand of water and sewerage tax/charges by CMWSSB, but as that has not happened as of today, there is no ground to interfere with the impugned demand notice.

11. Impugned demand notice is not interfered with preserving rights of writ petitioner qua impugned demand notice in aforesaid manner and writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12. It is pointed out by learned counsel for writ petitioner that pursuant to interim order of this Court in the instant writ petition, certain sums of monies have been paid directly to

CMWSSB and though obvious CMWSSB will have to give credit to such amounts so paid notwithstanding the dismissal of instant writ petition.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.Secretary to Government
State of Tamil Nadu
Municipal Administration and Water
Supply Department
Secretariat, Fort St. George
Chennai - 600 010.
- 2.The Commissioner
Greater Chennai Municipal Corporation
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- 5.Special Tahsildar
Revenue Recovery,
Area (5) CMWSSB, Chennai - 600 021.

+1cc to Mr.M.Jothi Kumar, Standing Counsel for (CMWSSB) SR.59137
+1CC TO Government Pleader sr.58550
+1cc to T.C.Gopalakrishnan, Advocate sr.58170

W.P.No.6803 of 2019 and
WMP Nos.7583 & 7584 of 2019

ppa(co)
nr 24/09/2019