

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.33644 of 2017 and
W.M.P.No.37227 of 2017

M.Wilson

... Petitioner

Vs.

1.The Depot Manager,
Chennai Metropolitan Water Supply
& Sewage Board VIII,
No.227, 2nd Avenue, Near 12th,
Anna Nagar, Chennai 600 040.

2.The Tahsildar/Sub Collector,
Chennai Metropolitan Water Supply
& Sewage Board VIII,
No.227, 2nd Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling upon the records culminating in the Demand Notice dated 01.12.2017 CMC.No.08/095/08084/000 issued by the 1st respondent and quash the same.

For Petitioner : Mr.K.Mahendran

For Respondents : M/s.N.Ramesh

ORDER

The petitioner is the owner of a small Commercial Unit measuring 60 sq.ft in Villivakkam. The petitioner has received impugned notice in C.M.C.No.08/095/08084/000, dated 01.12.2017 from the 1st respondent to pay tax and sewerage charges for the period of 2001/02 to 2017/02. The tax demanded for the aforesaid period is Rs.4,596/- and the charges demanded is Rs.1,18,650/-.

2.It is the contention of the learned counsel for the petitioner is that there is no water or sewerage connection to

the shop of the petitioner and therefore, the demand for the aforesaid tax and charges are contrary to law. In this connection, the learned counsel for the petitioner relied upon the decision of this Court in the case of "Haringtons, owned by Madanlal Sales Pvt. Ltd., by its Director, Mr.R.K.Jalan Versus The Commissioner of Secretary, Rural Development and Local Administration Department, Government of Tamil Nadu and others reported in MANU/TN/7141/2007", in which it is held as follows:-

"14.In the result, the writ petition is disposed of holding that the respondent-board has authority to demand water tax and sewerage tax from the occupiers of the premises but it has no authority to demand water charges from the occupiers of the house to whom there are no water connection. No costs."

3.The learned counsel for the petitioner further submitted that in the case of "S.Lakshminarayana Versus Bangalore Water Supply and Sewerage Board and Ors. reported in MANU/KA/0660/2014", the High Court of Karnataka at Bangalore, has held that the authorities are not entitled to collect charges without giving water or sewerage connection.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5.It is seen that Section 44 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, permits the authority to collect charges for the water supply and it describes differential rates. In this case, admittedly, there is no water supply or sewerage connection to the petitioner's shop. While being so, the respondent is not justified in collecting water and sewerage charges from the petitioner.

6.The respondent has no authority to demand water charges from the occupiers to whom neither water nor sewerage connection has been given. The petitioner would be liable to pay water and sewerage tax shall however continue to pay the tax and if there are any arrear, the respondent may initiate appropriate proceedings to recover the same or take steps to collect the same in accordance with law.

7.With the above observations, this Writ Petition stands disposed of. No costs. Consequence, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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+lcc to Mr.K.Mahendran , Advocate SR.No. 103962

+lcc to Mr.N.Ramesh , Advocate SR.No. 104466

W.P.No.33644 of 2017

A.SK(30/01/2020)



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