

In the High Court of Judicature at Madras

Dated : 05.3.2020

Coram

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.23518 of 2012 & MP.No.1 of 2012

V.Balasubramanyan

...Petitioner

Vs

1.The Commissioner, Corporation of
Chennai, Ripon Building, Chennai-3.

2.Chennai Metropolitan Water Supply
& Sewerage Board, rep.by its
Managing Director, No.1, Pumping
Station Road, Chintadripet, Chennai-2.

3.The Area Engineer X, Chennai
Metropolitan Water Supply &
Sewerage Board, No.9, Muthukrishnan
Street, T.Nagar, Chennai-17.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus to
call for the records in proceeding Lr.No.CMWSSB/Area X/DAE-30/D-
133/2012 dated 29.6.2012 on the file of the 3rd respondent,
quash the same as illegal and against the provision of the Act
and consequently direct the respondents to charge the said
premises as residential and give water and sewer connection.

For Petitioner : Mr.P.Valliappan

For Respondent-1 : Mr.R.Gopinath

For Respondents 2 & 3 : Mr.M.Jothikumar

ORDER

I have the learned counsel for the parties.

2. This writ petition has been filed by a chartered accountant, who is practicing along with his son, who is also a chartered accountant, in the subject premises. The proceedings, which is impugned in this writ petition is a communication sent by the third respondent dated 29.6.2012, in and by which, the third respondent assessed the ground floor premises on commercial basis since the petitioner is running his office.

3. The case of the petitioner is that this area cannot be treated to be used for commercial activity since the petitioner is practicing his profession, which is distinct from a commercial activity. The petitioner would further state that the profession of chartered accountant as in the case of advocates and doctors cannot be termed as a commercial activity. Further, such a stand was taken in the reply dated 23.4.2012 sent by the petitioner to the third respondent. However, the third respondent, though referred to the said reply, has not decided the issue as to whether the profession of chartered accountant is a commercial activity when it comes to assessment of property tax or water tax or water charges.

4. When the writ petition came up for hearing on 02.3.2020, the learned counsel for the petitioner submitted that he did not have the case bundle and he had a genuine doubt as to whether at all they filed the writ petition. To accommodate the learned counsel, the matter was directed to be listed today i.e. 05.3.2020. Today, once again, the learned counsel for the petitioner submits that he does not have information as to whether they filed this writ petition and in this regard, they sent a registered letter to the petitioner on 04.3.2020 i.e. yesterday. The learned counsel for the petitioner seeks an adjournment once again. However, considering the nature of relief sought for and also the fact that the writ petition is of the year 2012, this Court is not inclined to adjourn the matter. Further, considering the legal issue involved in the matter and the fact that there may be other cases as well, which may arise within the city of Chennai and that too, within the jurisdiction of the second respondent, this Court is of the view that the matter should be decided one way or the other by the second respondent.

5. Accordingly, the writ petition is disposed of by directing the petitioner to submit a representation to the second respondent raising all factual and legal contentions including any decision in support of his claim. If such a representation is given within three weeks from the date of receipt of a copy of this order, the second respondent shall take a decision in the matter and pass a reasoned order and communicate the same to the petitioner within a period of three

months thereafter. Till orders are passed by the second respondent, no coercive action shall be initiated against the petitioner and the impugned proceedings shall be kept in abeyance. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

RS

To

1.The Commissioner, Corporation of Chennai, Ripon Building, Chennai-3.

2.The Managing Director, Chennai Metropolitan Water Supply & Sewerage

Board, No.1, Pumping Station Road, Chintadripet, Chennai-2.

3.The Area Engineer X, Chennai Metropolitan Water Supply & Sewerage

Board, No.9, Muthukrishnan Street, T.Nagar, Chennai-17.

+1cc to Mr.P.Valliappan, Advocate SR.No.20171

+1cc to Mr.R.Gopinath, Advocate SR.No.19709

+1cc to Mr.M.Jothikumar, Advocate SR.No.19654

WP.No.23518 of 2012
and MP.No.1 of 2012

KS (CO)

GMV (10/06/2020)

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