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In the High Court of Judicature at Madras

Dated : 11.3.2020

Coram

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No. 4225 of 2012

P. Dakshinamurthy

...Petitioner

Vs

1. The Chairman-cum-Managing
Director, Chennai Metropolitan
Water Supply & Sewerage Board,
No. 1, Pumping Station Road, Chennai-2.

2. The Senior Accounts Officer, Chennai
Metropolitan Water Supply &
Sewerage Board, Area Office VII, No. 25,
Sathyamurthy Nagar, Chetpet, Chennai-31.

3. The Assistant Engineer, Depot 109 &
presently Depot 111, Chennai Metropolitan
Water Supply & Sewerage Board, No. 36,
Village Road, Nungambakkam, Chennai-34.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider and dispose of the petitioner's representation dated 17.2.2010 addressed to the respondents relating to his plea for waiver of surcharge or account of non-supply of water to his premises bearing Old Door No. 8, New Door No. 15, Gulam Abbas Alikhan 9th Street (New Street), Thousand Lights, Chennai-6.

For Petitioner : Mr. P. Karl Marx

For Respondents : Mr. M. Jothikumar

ORDER

I have heard Mr. Karl Marx, learned counsel for the petitioner and Mr. M. Jothikumar, learned Standing Counsel for the respondents.



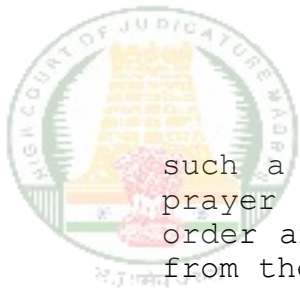
2. The petitioner is the absolute owner of the property, which stands in the name of his grandfather and due to financial constraints, the petitioner did not pay the water tax and charges, which led to disconnection of water supply. Earlier, the petitioner filed W.P.No.10432 of 2005 against the disconnection of water supply and the proposed disconnection of sewerage line.

3. It is stated that in the said writ petition, an interim order was granted on 29.3.2005 in WMP.No.11329 of 2005 directing the respondents not to disconnect the water and sewerage connection subject to the condition that the petitioner should pay 50% of the arrears. According to the petitioner, he complied with the same. The petitioner would state that the sewerage line was not disconnected. However, the water supply connection was not restored in spite of the fact that the condition imposed in the earlier writ petition was complied with. The petitioner would further state that he has two independent bore wells, from which, he has been drawing water and requested for waiver stating that it is a failure on the part of the respondents to restore the water supply to his premises. In this regard, the petitioner refers to Clause 27(iv) of the Chennai Metropolitan Water Supply and Sewerage Charges (Levy and Collections) Regulations, 1998. The petitioner sent three representations and since no orders were passed pursuant to that, the petitioner is before this Court.

4. The learned Standing Counsel for the respondents would submit that there is no provision for waiving the surcharge because surcharge is levied on account of delayed payment of tax and charges. It is further submitted that the decision relied upon by the petitioner in the case of Sadan Tolls Room Pvt. Ltd. Vs. CMWSSB [reported in 2004 (1) CTC 608] is distinguishable on facts.

5. In any event, the representations are pending before the Authorities and it is for the Authority concerned to pass an order on the representations. Since last of such representations was submitted sometime during 2012, the petitioner should be directed to send a fresh representation.

6. Accordingly, the writ petition is disposed of by directing the petitioner to submit a fresh representation to respondents 2 and 3 by enclosing copies of the earlier representations along with a copy of this order. On receipt of



such a representation, respondents 2 and 3 shall consider the prayer made by the petitioner for waiver and pass a speaking order and communicate the same to the petitioner within 12 weeks from the date of receipt of the fresh representation. No costs.

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Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

RS

To

1. The Chairman-cum-Managing Director, Chennai Metropolitan Water Supply & Sewerage Board, No.1, Pumping Station Road, Chennai-2.
2. The Senior Accounts Officer, Chennai Metropolitan Water Supply & Sewerage Board, Area Office VII, No.25, Sathyamurthy Nagar, Chetpet, Chennai-31.
3. The Assistant Engineer, Depot 109 & presently Depot 111, Chennai Metropolitan Water Supply & Sewerage Board, No.36, Village Road, Nungambakkam, Chennai-34.

WP.No.4225 of 2012

KS (CO)
GMY (01/07/2020)