

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 9972 of 2015
and
M.P. No. 1 of 2015

N. Ragothaman

... Petitioner

-vs-

1. The Tahsildar-cum-Deputy Collector,
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-X, No. 9, Muthukrishnan Street,
T. Nagar,
Chennai - 600 017.
2. The Area Manager,
Area - 10,
Chennai Metropolitan Water Supply and Sewerage Board,
No. 9, Muthukrishnan Street,
T. Nagar,
Chennai - 600 017.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned Notice dated 12.03.2015 on the file of the First Respondent herein, quash the same.

For Petitioner : Mr. Govi Ganesan

For Respondents: Mr. P.K. Panneer Selvam
Standing Counsel

सतयमेव जयते
O R D E R
(through video conference)

Heard Mr. Govi Ganesan, Learned Counsel for the Petitioner and Mr. P.K.Panneer Selvam, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges Demand Notice dated 12.03.2015 for sewerage tax and water tax and water charges, on the ground that the property belonging to the Petitioner is a commercial shop, which does not have any water connection.

3. It is highlighted by the Learned Counsel for the Respondents that the sewerage tax and water tax are statutory levy under the Chennai Metropolitan Water Supply and Sewerage Act, 1978, which has to be paid by the owner or occupier of the property, irrespective of having sewerage and water connection for the premises, after fifteen days from 1st April and 1st October of each half year, along with surcharge for the delayed payment. The ruling of this Court in R.P.Krishnan -vs- Principal Secretary to Government (Order dated 13.07.2017 in W.P. Nos. 17458 and 18957 of 2017) is cited in that regard, which reads as follows:-

"5. Further it states that the water and sewerage tax is a statutory levy and to be paid irrespective of water and sewerage connections available or not and becomes due after 15 days from 1st April and 1st October of each half year. Further for the delayed payment, surcharge is collected at 1.25% per month on recurring basis. In terms of Section 62(2) of the CMWSSB Act, the owner and occupier of the premises shall be jointly and severally liable for payment of all sums due to the Board. The present owner of the property is liable for making payment of taxes and charges, are unpaid by the previous owners. Thus, the payment conditions and guidelines as mentioned in the assessment card binds the petitioner. Therefore, the petitioner has not made out any case for interference with the impugned notice."

4. On a bare perusal of the impugned notice, it could be seen that a sum of Rs. 6,852.00 towards water tax and Rs. 7,911.00 for surcharge has been claimed. That apart, a sum of Rs. 69,990.00 has been claimed as water charges with another sum of Rs. 78,235.00 towards the surcharge for the same. As earlier noticed, it is the specific case of the Petitioner that it does not have any water connection to the property. In that event, it is incumbent upon the Respondents to inspect the property of the Petitioner to factually ascertain whether the said contention is true and if so, it would have to be explained by the Respondents to the Petitioner as to how the demand for water charges has been made. In respect of the claim for water tax with surcharge, a working-sheet shall be provided to the Petitioner showing how the said amount has been arrived. The Learned Counsel for the Petitioner submits that at the time of admission, this Court had passed an interim order dated 08.04.2015, requiring the Petitioner to pay a sum of Rs. 20,000/- as condition for grant of interim stay of the impugned order. If the said condition has been complied, the Respondents

shall take into account the said amount paid while arriving at the balance remaining due. Such exercise shall be completed and report in that regard shall be filed by the Respondents by 31.12.2020 before the Registrar (Judicial) of this Court. No coercive action shall be taken against the Petitioner for recovery of the amount demanded in terms of the impugned notice till the aforesaid exercise completed. Depending upon the outcome of such action taken by the Respondents, if the Petitioner still has any grievance, it is open to him to work out her remedies for necessary relief before proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

kv

To

1. The Tahsildar-cum-Deputy Collector,
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-X, No. 9, Muthukrishnan Street,
T. Nagar,
Chennai - 600 017.
2. The Area Manager,
Area - 10,
Chennai Metropolitan Water Supply and Sewerage Board,
No. 9, Muthukrishnan Street,
T. Nagar,
Chennai - 600 017.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1 cc to M/s.K.Govi Ganesan Advocate sr37257

W.P. No. 9972 of 2015

sj (co)
aa02/12/2020



WEB COPY