

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 28395 to 28397 of 2017
and

W.P. Nos. 28966 and 31790 of 2017
and

W.M.P. Nos. 30491, 30492, 30493, 31179 and 34933 of 2017

W.P. No. 28395 of 2017:-

Narendra Raj (Madhu Card)
No. 9, South Usman Road,
Chennai-17.

.... Petitioner

-vs-

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 2.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.476
Muthukrishnan Street
T.Nagar, Chennai - 17.

3.Ajith Kumar

4.Marimuthu

5.Vijayarani

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to impugned demand notice CMC No.10/141/04018/000, 07/09/2017 on the file of the Second Respondent and quash the same.

For Petitioner : Mr. P.Sidharthan

For Respondents: Mr. M.Jothikumar (For R1 and R2)

Standing Counsel

No Appearance (R3)

Mr. V.Suryasankar (R4 and R5)

W.P. No. 28396 of 2017:-

Kumaravelan (Sakthi Xerox)
No. 9, South Usman Road,
T.Nagar, Chennai - 17.

...Petitioner

-vs-

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 2.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.476
Muthukrishnan Street
T.Nagar, Chennai - 17.

3.Ajith Kumar

4.Marimuthu

5.Vijayarani

... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records pertaining to impugned demand notice CMC
No.10/141/04018/000, 07/09/2017 on the file of the Second
Respondent and quash the same.

For Petitioner : Mr. P.Sidharthan

For Respondents: Mr. M.Jothikumar (For R1 and R2)
Standing Counsel

No Appearance (R3)

Mr. V.Suryasankar (R4 and R5)

W.P. No. 28397 of 2017:-

M/s. Bismi (Stationary Shop)
Rep by its partner
Md.Siddique Rahman
No.9, South Usman Road,
T.Nagar, Chennai - 17.

...Petitioner

-vs-

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 2.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.476
Muthukrishnan Street
T.Nagar, Chennai - 17.

3.Ajith Kumar

4.Marimuthu

5.Vijayarani ... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records pertaining to impugned demand notice CMC
No.10/141/04018/000, 07/09/2017 on the file of the Second
Respondent and quash the same.

For Petitioner : Mr. P.Sidharthan

For Respondents: Mr. M.Jothikumar (For R1 and R2)
Standing Counsel

No Appearance (R3)

Mr. V.Suryasankar (R4 and R5)

W.P. No. 28966 of 2017:-

Jayaprakash (Aavin Ice Cream),
Proprietor,
No. 9, South Usman Road,
T.Nagar,
Chennai - 17.

...Petitioner

-vs-

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 2.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.476
Muthukrishnan Street
T.Nagar, Chennai - 17.

3. Ajith Kumar

4. Marimuthu

5. Vijayarani ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to impugned demand notice CMC No.10/141/04018/000, 07/09/2017 on the file of the Second Respondent and quash the same.

For Petitioner : Mr. P.Sidharthan

For Respondents: Mr. M.Jothikumar (For R1 and R2)
Standing Counsel
No Appearance (R3)
Mr. V.Suryasankar (R4 and R5)

W.P. No. 31790 of 2017:-

K.Annamalai ... Petitioner

-vs-

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 600 002.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.47,
Muthukrishnan Street
T.Nagar,
Chennai - 600 017.

3.Ajith Kumar

4.Marimuthu

5.Vijayarani

6.P.S.R.Sathyamurthy ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 07.09.2017 in CMC No.10/141/04018/000, on the file of the Second Respondent and quash the same as illegal and arbitrary and consequently forbearing First and Second Respondents, their men, employees, subordinates, agents or any other persons claiming or acting through or under them, from effecting any disconnection to the Petitioner's shops at No. 9 and 10, South Usman Road, being Part of Old Door No.1, Damodara Reddy Street, and also bearing Door No. 3/1, New No.3/1AL, T.Nagar, Chennai - 600 017.

For Petitioner : Mr. P.B.Balaji

For Respondents: Mr. M.Jothikumar (For R1 and R2)
Standing Counsel

No Appearance (For R3)

Mr. V.Suryasankar (R4 and R5)

Mr. P.Kannan Kumar (For R6)

C O M M O N O R D E R

(through video conference)

Heard Mr. P.Sidharthan, Learned Counsel for the Petitioners in W.P. Nos. 28395 to 28397 and 28966 of 2017, Mr. P.B.Balaji, Learned Counsel for the Petitioner in W.P. No. 31790 of 2017, Mr. M.Jothikumar, Learned Standing Counsel for the First and Second Respondents in W.P. Nos. 28395 to 28397 and 28966 of 2017 and W.P. No. 31790 of 2017, Mr. V.Suryasankar, Learned Counsel for the Fourth and Fifth Respondents in all Writ Petitions and Mr. P.Kannan Kumar, Learned Counsel for the Sixth Respondent in W.P. No. 31790 of 2017 and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioners, the building located at No.9, South Usman Road, T.Nagar, Chennai - 17 has 9 shops and the Petitioners are in occupation one shop each as tenants. Since the owner of the premises failed to pay the sewerage and water tax amounting to Rs. 19,43,438/- for the period from II/ 1999-2000 to I/2017-18 and metered water charges of Rs. 35,917/- for the period from May - 2007 to August - 2010, each of the Petitioners were issued separate notices dated 07.09.2017 calling upon them as occupiers of the premises to pay the said amounts, which is challenged in these Writ Petitions.

3. The grievance sought to be ventilated by the Learned Counsel for the Petitioners in these Writ Petitions is that each of the Petitioners cannot be called upon to pay the entire amount of arrears and that their liability would have to be confined in proportion to the extent of the actual area in the building occupied by them. There is substantial force in the said contention.

4. It is also brought to notice that the compliance of the interim orders passed by this Court in these Writ Petitions, the Petitioners have paid substantial part of the amounts demanded in the impugned notices which should be taken into account.

5. Having regard to the aforesaid submissions made, the impugned notices are set aside and the matters are remitted to the Second Respondent for fresh determination of the extent of liability of each of the Petitioners in proportion to the extent of the actual area in the building occupied by them. In this regard, an inspection of the entire building shall be conducted and the extent of the area occupied by each of the Petitioners shall be ascertained and the arrears due shall be apportioned amongst the Petitioners on that basis and fresh orders of demand shall thereafter be raised to each of the Petitioners after deducting the payments that have been made by the respective Petitioners so far. Though obvious, it is made clear that the Petitioners are not precluded from seeking reimbursement of the amounts paid to the Second Respondent, if they are otherwise eligible, from the owner of the property in the manner recognized by law.

Accordingly, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman/Managing Director
Chennai Metropolitan Water Supply and Sewerage
Board, (CMWSSB)
No. 1, Pumping Station Road,
Chennai - 2.

2. The Area Engineer
Area X, CMWSSB
New No.9, Old No.476
Muthukrishnan Street
T.Nagar, Chennai - 17.

+1cc to M/s.P.B.Ramanujam, Advocate, S.R.No.37534

W.P. No. 28395 of 2017 etc., batch

SSD(CO)
RV(03/12/2020)



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