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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.20768 of 2021

and

W.M.P.No.22030 of 2021

M/s.Neo Vijaya Lodge,  
Represented by its Proprietor  
Mr.K.Ravindranath,  
No.13/7, Francis Joseph Street,  
Chennai-600 001.

...Petitioner

-Vs.-

1.Greater Corporation of Chennai,  
Rep.by its commissioner  
Sydenhams Road,  
Rippon Buildings,  
Chennai.

2.The Assistant Revenue Officer,  
Zone-V,  
No.62, Basin Bridge road,  
Chennai-600 079.

3.Saifee Jubilee High School &  
Madrassa-E-Yusufia Society,  
Sidhpur,  
having its office  
at No.194,  
Broadway,  
Chennai 600 104.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call records pertaining to the impugned notice issued by the 2<sup>nd</sup> respondent in Bill No.00851 Ward 060 dated 24.08.2021 in respect of Door No.13/7, Francis Joseph Street, Chennai 600 001 and to quash the same.



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For Petitioner : Mr.T.Sellapandian

For Respondent : Ms.S.Vaitheeswari  
standing counsel for Corporation  
for R1 and R2

## O R D E R

Mr.T.Sellapandian, learned counsel appearing on behalf of the learned counsel on record for writ petitioner is before this Virtual Court.

2. Captioned writ petition pertains to 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' which was earlier known as Madras City Municipal Act, 1919, and therefore it shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity.

3. The writ petitioner is a tenant under the third respondent in respect of a property at 'No.13/7, Francis Joseph Street, George Town, Chennai 600 001' [hereinafter 'said property' for the sake of convenience and clarity].

4. Writ petitioner is running a lodging house in the said property. There are proceedings under the 'Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Tamil Nadu Act XVIII of 1960)' [hereinafter 'Rent Control Act' for the sake of brevity] between the third respondent and writ petitioner. This Court is informed by the learned counsel that the third respondent (landlord) has filed a Rent Control Original Petition being R.C.O.P.No.1524 of 2016 on the file of XIV Small Causes Court, Chennai under Section 4 of Rent Control Act (for fixation of fair rent) and the same is pending. It may not be necessary to go into this aspect of the matter and it will suffice to say that this has been captured for completion of facts.

5. In the captioned writ petition, a 'notice dated 24.08.2021 bearing reference Bill No.00851 Ward 060' [hereinafter 'impugned notice' for the sake of convenience and clarity], issued by second respondent has been called in question.

6. A scanned reproduction of impugned notice is as follows:



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**GREATER CHENNAI CORPORATION**  
**REVENUE DEPARTMENT**

Reply to be addressed to (THE REVENUE OFFICER) in writing to the number and date of this letter.

Date: 24/5/2018

Ward committee office (R.D.)      BH no. 0685/ Ward. 060

From  
THE ASSISTANT REVENUE OFFICER  
200-2  
200-2

ward committee office  
Greater Chennai Corporation

To  
NEW VILLAGE LADDER  
13/2, Francis Rd, 200-2  
200-2

Subject - Notice to occupiers under rule 29, Schedule IV of the Chennai City Municipal Act IV, of 1919.

Sir,

I wish to inform you that the property tax on premises No. 13/2, Francis (S) Street, George Town, Chennai - 600 001.

Street occupied by you still remains unpaid by the owner for the 200-2 Bldg.

200-2 - 2018 To Half year of 200-2 - 200-2 even

after a bill has been duly sent to him. In pursuance of rule 29 schedule IV of the Chennai City Municipal Act IV of 1919 as amended by the Chennai Act X of 1926, I hereby call on you to make payment of tax.

The amount so paid can be deducted under section 175 of the act from the status. I request that you will be so good as to remit me the sum of Rs. 477467/- due for the tax as early as possible.

If the amount is not paid within 3 days, it will be recovered by distraint under a warrant.

G. DURAIPANDIAN  
TAX COLLECTOR  
Cell : 9444443487

Asst. Revenue officer  
( I ) Zone  
( R.D. )

7. A perusal of impugned notice makes it clear that it has been issued under Rule 29 to Schedule IV of MCMC Act. To be noted, Schedule IV of MCMC Act is captioned as 'Taxation Rules'. Aforementioned Rule 29 to Schedule IV of MCMC Act reads as follows:

'29. If the tax due on account of any building or land remains unpaid in whole or in part at the end of the period in sub-rule (1) of rule 21, the commissioner may if the said tax has not remained unpaid for more than twelve months require the occupier for the time being of such building or land to pay the amount within a specified period not being



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less than fifteen days and if the occupier fails to comply with such requisition, the commissioner may distrain and sell any movable property found on the building or land and the provisions of the foregoing rule shall mutatis mutandis apply to all distraints and sales effected under this rule:

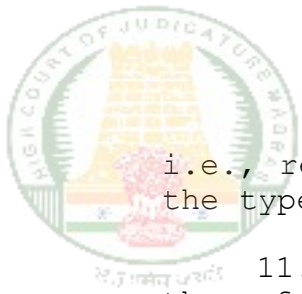
Provided that no occupier shall be liable to prosecution or to a civil suit in respect of any sum recoverable from him under this rule unless he has willfully prevent distraint or a sufficient distraint.'

8. Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of both the respondents i.e., respondents 1 and 2. Learned counsel submits, on instructions, that the impugned notice is dated 24.08.2021, it was served on the writ petitioner on the same day and almost ten days thereafter writ petitioner has given representation dated 03.09.2021, requesting for four weeks time to comply with the demand. Learned counsel also draws the attention of this Court to Section 375 of MCMC Act and submits that the writ petitioner as an occupier can recover monies paid from the owner if he has a right to do so. Section 375 of MCMC Act reads as follows:

'375. Recovery by occupier of sum leviable from owner- [If the occupier of any building or land makes on behalf of the owner thereof any payment for which under this act, the owner, but not the occupier is liable] such occupier shall be entitled to recover the same from the owner and may deduct it from the rent then or thereafter due by him to the owner.'

9. Learned counsel for writ petitioner very fairly submits that he is not entering upon any disputation qua powers of the second respondent who issued the impugned notice, but all that he needs is a breather for complying with the demand and learned counsel submits that this request has become necessary owing to Corona Virus Pandemic and consequent lock down which is collectively referred to as 'COVID 19 situation'. Writ petitioner could not neither portend nor presage COVID 19 situation is learned counsel's say. As there is no illegality or infirmity qua impugned notice and as in this case on hand writ petitioner can always seek recovery of monies paid from the owner (if the writ petitioner chooses to do so) under Section 375 of MCMC Act, I am not inclined to interfere qua impugned notice.

10. However, dismissal of the captioned writ petition will not come in the way if the second respondent chooses to consider the representation that has been made by the writ petitioner



i.e., representation dated 03.09.2021 (which is at page No.21 of the typed set of papers).

11. Captioned Writ Petition is dismissed albeit providing the aforesaid window to the writ petitioner and the second respondent, owing to the peculiar facts and circumstances of this case. Consequently, captioned writ miscellaneous petition is also dismissed. There shall be no order as to costs.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Commissioner  
Greater Corporation of Chennai,  
Sydenhams Road,  
Rippon Buildings, Chennai.

2.The Assistant Revenue Officer,  
Zone-V,  
No.62, Basin Bridge road,  
Chennai-600 079.

W.P.No.20768 of 2021  
and  
W.M.P.No.22030 of 2021

KV(CO)  
RGA(18/10/2021)