

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.3732 of 2017

and

W.M.P.No.3793 of 2017

V.Kesava Rao

... Petitioner

Vs.

1.The Chennai Metropolitan Water Supply and
Sewerage Board,
Rep by its Managing Director,
No.1, Pumping Station Road,
Chennai - 600 002.

2.The Senior Accounts Officer,
CMWSSB, Area - VIII,
Anna Nagar, Chennai - 600 040.

3.The Tahsildar/Deputy Tahsildar,
Chennai Metropolitan Water Supply and
Sewerage Board, Area - VIII,
227, 2nd Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India praying for the issuance of Writ of
Certiorari, to call for the records of the proceedings in
pursuant the distraint notice of the 3rd respondent in
proceedings No.CMC 08-102-00071-000 dated 01.02.2017 and quash
the same relating to vacant land bearing Door No.22, (44)
Ayyavoo Street, Shenoy Nagar, Chennai - 600 030.

For Petitioner : Mr.P.Rajendra Kumar

For Respondents : Mr.Janakiraman

O R D E R

The petitioner has challenged the impugned
recovery/d distraint notice dated 01.02.2017 issued by the
respondent under the Provisions of the Tamil Nadu Revenue
Recovery Act, 1864 for the alleged arrear of water tax and

surcharge from the petitioner in the books of second respondent. As per the impugned recovery/distrainment notice dated 01.02.2017, the petitioner is in arrears of Rs.1,06,284/- towards water tax and a further sum of Rs.1,39,109/- as the towards surcharge thereon.

2.Though impugned recovery notice does not spell the period for which the above amounts are due from the petitioner, in the counter filed by the second respondent it has been stated that the amount has been demanded from the petitioner was for the period commencing between first half of 2001-2002 and second half of 2009-2010.

3.According to the respondent the petitioner was also in arrears of property tax or a sum of Rs.6,04,352/- for the period upto 2nd half of 2009-2010 and that for the period thereafter the assessment was deactivated account of demolition and reconstruction. It is submitted that the water tax has been thereafter revised to Rs.53/- and reduced and that there are no arrears as on date. Paragraph 7 and 8 of the counter filed by the second respondent reads as under:-

7.With regard to the averments made in paras 3 & 4 of the affidavit, it is submitted that the petitioner's property was assessed by the Corporation of Chennai initially in old CMC Bill No.05/068/2185/000000 and corresponding new Bill No. assigned for the same property is 08/102/00071/000 and retained upto 2/2009-10 afterwards of Corporation of Chennai has deactivated the above Bill No's stating as DEMOLITION AND RECONSTRUCTION showing property tax arrears of Rs.6,04,352/- to be paid to the Corporation of Chennai for the period related to before deactivation of the property. Accordingly, the proportionate water and sewerage tax for the corresponding periods are showing as arrears in the records of the Board and to be paid to the Board.

8.Further, it is submitted that the Corporation of Chennai has re-assessed the petitioner's same property treating as land assessment from 1/2010-11 vide assessment order dated 07.06.2016. After reassessment made by the Corporation of Chennai in a new CMC Bill No.08/102*/11532/000 and the water and sewerage tax was reduced to Rs.53/- per half year from 2/2016-17 and there isi no arrears as on date.

4.In the light of the above, the impugned recovery notice issued by the 3rd respondent is liable to be quashed and is accordingly quashed. The second respondent is directed to serve a copy of the order of assessment on the petitioner under the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1987 to the petitioner and thereafter serve a fresh copy of fresh demand notice for any arrears of water tax and surcharge, if any, from the petitioner in accordance with law.

5.The writ petition stands disposed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
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Sewerage Board,
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2.The Senior Accounts Officer,
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Anna Nagar, Chennai - 600 040.

3.The Tahsildar/Deputy Tahsildar,
Chennai Metropolitan Water Supply and
Sewerage Board, Area - VIII,
227, 2nd Avenue, 12th Main Road,
Anna Nagar, Chennai - 600 040.

+1cc to Mr.G.Janakiraman, Advocate, S.R.No.9064
+1cc to Mr.P.Rajendra Kumar, Advocate, S.R.No.8709

W.P.No.3732 of 2017
and
W.M.P.No.3793 of 2017

PMK (CO)
CB(18/05/2021)