



W.P.No.952 of 2020 &
WMP.No.1152 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.952 of 2020 &
WMP.No.1152 of 2020

The Agri Horticultural Society,
A society Registered under the
Society Registration Act having
its office at No.31, Cathedral Road,
Chennai - 600 006, rep. by its
Secretary V.Krishnamurthy.

... Petitioner

Vs

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

2.Senior Account Officer-IX,
1, Dr.Ranga, Abhiramapuram,
Chennai - 600 018.

3.The Secretary, Department of Municipal
Administration and Water Supply,
Fort St.George, Chennai - 600 009.

(R3 suo motu impleaded vide order dated
13.10.2022 in W.P.No.952/2022 by ASMJ)

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to notice issued by 2nd respondent in letter No.CMWSSB/AreaIX/B&C/SPL/2019 dated 30.12.2019, and quash the same and consequently forbear the respondents from levying and collecting any water tax or water and sewerage charges from the petitioner society insofar as the connection pertaining to old No.29, Cathedral Road, Chennai is concerned.

For Petitioner : Mr.Niranjan Rajagopalan

For Respondents : Mr.R.Surya Prakash
for Dr.N.Paul Sunder Singh
Standing Counsel - R1 & R2

Mr.K.Surendran
Additional Government Pleader - R3

ORDER

The petitioner is the Agri Horticultural Society, Chennai and challenges demand notice dated 15.10.2019 issued by the Chennai Metropolitan Water Supply and Sewerage Board (in short 'Board') calling upon the petitioner to remit arrears of water and sewerage tax and charges in all amounting to a sum of Rs.11,42,404/- in regard to the property at door No.31, Cathedral Road, Gopalapuram, Chennai - 600 086.



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2. Interim orders had been passed by this Court on 13.01.2020 and 03.02.2020 granting stay of the impugned notice upon condition that the water tax for the period second half of 2004 to second half of 2008, and sewerage charges for the period second half of 2004-2005 to the first half of 2008-2009, be remitted to the credit of this writ petition. The amount was quantified at a sum of Rs.4,09,414/- for the aforesaid period. The order have admittedly been complied on 05.01.2020.

3. Pleadings have been completed and matter was listed on 13.10.2022 when the following order was passed:

"The challenge is to a demand notice issued by the Chennai Metropolitan Water Supply and Sewerage Board (in short "Board") towards arrears of watertax and charges in respect of the property at No.29, Cathedral Road, Chennai (property in question) for the period 2004 (second half) till 2019 (second half). The demands for the period 2004 (second half) to 2008 (second half) have been remitted by the petitioner, the Agri Horticultural Society, since litigation between itself and the restaurant, which was in occupation of the property in question had come to an end and the State had taken over the property from 11.04.2008 onwards.

2. It is the case of the petitioner that in any event, on and from 11.04.2008, liability if any, will enure only to the State. Thus the stand of the State must be ascertained and for this purpose, the Secretary, Department of Municipal Administration and Water Supply, Fort St. George, Chennai-600 009 is impleaded as R3.



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3.Mr.K.Surendran, learned Additional Government Pleader accepts notice for newly impleaded respondent/R3 and will be served a copy of the papers by the petitioner forthwith. Let him ascertain the stand of the State and file a counter as a last opportunity on or before 02.11.2022.

4.List on 02.11.2022. The counter shall also contain a clarification as to the liability for the period 2004 to 2008, remitted by the petitioner to the credit of this writ petition, pursuant to a direction issued by this Court."

4.The State has filed a counter dated 01.11.2022 wherein they confirm at para No.16 as follows:

"16.It is respectfully submitted that, the subject land at Door No.47 (Old Door No.29), Cathedral Road, Teynampet, Chennai - 600 086 was taken possession by the Government (Revenue Department) on 11.04.2008. As such, the liability of the petitioner to pay water taxes and charges will not arise from 12.04.2008. However, the petitioner-society is liable for payment of any arrears towards water tax and charges, for the period upto the date of the resumed lands by the Government, i.e.11.04.2008."

5.With this, the impugned demand insofar as it relates to the period post 12.04.2008 stands quashed. As regards the liability for the period from second half of 2004-2005 till 11.04.2008, the petitioner has remitted a sum of Rs. 4,09,414/- which shall be appropriated towards such demand. Additional demand, if any, computed for the period from 01.04.2004 to 11.04.2008 may be recovered from the petitioner, in accordance with law.



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6.Learned counsel for the petitioner would make an attempt to state that it was only the occupier, that is, the restaurant that had been in occupation of the property, that had been remitting the water tax and charges, and hence no demand must be mulcted upon the petitioner. At the outset, there is nothing to evidence the submission that the demands for the prior periods were being settled by the occupants.

7.That apart and even assuming that the tenant had been effecting payments, the liability for such demand falls only upon the owner and thus any demand that remains till such time the property is handed over to the State, must be met by the petitioner.

8.This Writ Petition is disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

02.11.2022

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Index : Yes / No

Speaking Order



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Dr.ANITA SUMANTH, J.

kbs

To

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Rep. by its Managing Director.
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