IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.12.2022**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.33931 of 2022
and W.M.P.No.33424 of 2022

M.Zeenathunnisa, F/64 Years,
W/o S.Mohamed Jinnah,
No.130, Thambu Chetty Street,
George Town, Chennai-600 001.
Rep., by her Power of Attorney Agent
J.Mohamed Ameen,
S/o A.K.M.Junaid,
No.72, Angappa Naicken Street,
Mannady, Chennai-600 001. ... Petitioner

Vs.

1.The Principal Secretary / Commissioner
Greater Chennai Corporation,
Rippon Buildings,
Chennai-600 003.

2.The Assistant Revenue Officer,
Corporation of Chennai,
Zone-5, Division-060,
No.62, Basin Bridge Road,
Chennai-600 079. ... Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari calling for the records relating to the impugned notice of the first respondent dated 30.11.2022 displayed on the petitioner property at Door No.273 (130), Thambu Chetty Street, George Town, Chennai-600 001 under property Tax Bill No.05/060/03687/000 and quash the same.

For Petitioner : Mr.A.S.Kaizer

For Respondents : Mr.Aswini Devi, K.
Standing Counsel

ORDER

This common order will now govern captioned main writ petition and captioned 'writ miscellaneous petition' (WMP for the sake of convenience).

2. Mr.A.S.Kaizer, learned counsel on record for writ petitioner and Ms.K.Aswini Devi, learned standing counsel for Chennai Corporation on behalf of both the respondents are before this Court.

3. Owing to the limited perimeter within which the captioned main writ petition perambulates, with the consent of learned counsel for both sides, main writ petition was taken up.

4. Short point is, the writ petitioner, who is the owner of an immovable property at 'Door No.273 (130), Thambu Chetty Street, George Town, Chennai – 600 001' (hereinafter 'said property' for the sake of convenience and clarity) has been

assessed to property tax and the writ petitioner has been paying property tax at the rate of Rs.52,315/- per half year. It suddenly came to light that the half yearly property tax has been enhanced from Rs.52,315/- to Rs.1,16,595/- with effect from I/2009-2010 i.e., first half year of 2009-2010 or in other words from 01.04.2009. This enhancement has been challenged by the writ petitioner by way of an appeal dated 22.06.2016. To be noted, this Court is informed that the first respondent is the appellate authority and the appeal is pending with the first respondent.

5. When things stood as above, there appears to have been a further upward revision from Rs.1,16,595/- to Rs.2,64,700/- with effect from I/2021-2022 i.e., the first half year of 2021-2022 or in other words from 01.04.2022.

6. In the aforementioned scenario, a notice dated 30.11.2022 has been affixed in the said property. Notice placed before this Court and clean copy of the same are as follows:

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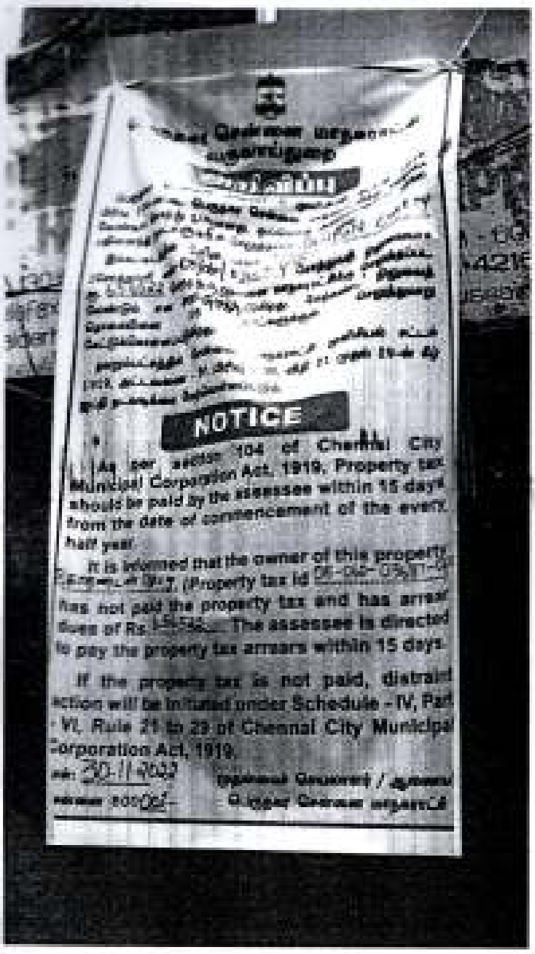
NOTICE
As per section 104 of Chennai City Municipal Corporation Act, 1919, Property tax should be paid by the assessee within 15 days from the date of commencement of the every half year.
It is informed that the owner of this property (Property tax id
has not paid the property tax and has arrear dues of Rs.
The assessee is directed to pay the property tax arrears within 15 days.
If the property tax is not paid, distraint action will be initiated under Schedule - IV, Part - VI, Rule 21 to 29 of Chennai City Municipal Corporation Act, 1919.

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பெருநகர சென்னை மாநகராட்சி வருவாய்த்துறை

அறிவிப்பு

பெருநகர சென்னை மாநகராட்சி முனிசிபல் சட்டம் 1919 பிரிவு 104-ன்படி, பெருநகர சென்னை மாநகராட்சிக்கு செலுத்த வேண்டிய சொத்து வரியானது ஒவ்வொரு அரையாண்டின் முதல் பதினைந்து நாட்களுக்குள் செலுத்தப்பட வேண்டும்.

இக்கட்டிடத்தின் உரிமையாளர் KOTANDAN CHETTY (சொத்து வரி எண்:05-060-03687-000) சொத்துவரி நிலுவையாக ரூ.6,56,522/- பெருநகர சென்னை மாநகராட்சிக்கு செலுத்தப்பட வேண்டும் என அறிவிக்கப்படுகிறது. மேற்கண்ட நிலுவைத் தொகையினை 15 நாட்களுக்குள் செலுத்துமாறு கேட்டுக்கொள்ளப்படுகிறது.

தவறும்பட்சத்தில் சென்னை மாநகராட்சி முனிசிபல் சட்டம் 1919 அட்டவணை பிரிவு விதி 21 முதல் 29-ன் கீழ் ஜப்தி நடவடிக்கை மேற்கொள்ளப்படும்.

NOTICE

As per Section 104 of Chennai City Municipal Corporation Act, 1919, Property tax should be paid by the assessee within 15 days from the date of commencement of the every half year.

It is informed that the owner of this property கோதண்டன் செட்டி (Property Tax I.D. 05-06-03687-000) has not paid the property tax and has arrears due of Rs.6,56,522/-. The assessee is directed to pay the property tax arrears within 15 days.

If the property tax is not paid, distraint action will be initiated under Schedule-IV Part-VI Rule 21 to 29 of Chennai City Municipal Corporation Ac, 1919

நாள் :- 30-11-2022

சென்னை 600 001

முதன்மை செயலாளர்/ ஆணையர்,

பெருநகர சென்னை மாநகராட்சி

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7. Simple, short and straight point made by learned counsel for writ petitioner is, appeal has been pending for more than five years now, pending appeal, there has been further enhancement and that distraint notice under Section 104 of the Chennai City Municipal Corporation Act, 1919 has now been affixed in the said property.

8. Learned standing counsel for Chennai Corporation, on instructions, submits that aforementioned appeal will be disposed of as expeditiously as possible by the first respondent and in any event within a period of four weeks from today i.e., by 20.01.2023.

9. Demand/Distraint notice, if at all and if that be so, will be only subject to the outcome of the appeal and it will depend on what the outcome qua appeal is. Therefore, on this short point, the impugned demand notice is set aside leaving it open to the respondents to raise a fresh demand notice depending on and subject to outcome of the appeal. It is also made clear that the writ petitioner shall continue to pay half yearly property tax for said property at the rate of Rs.52,315/- till disposal of the appeal.

10. Captioned writ petition is disposed of in the aforesaid manner. Consequently, captioned writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

20.12.2022

Index:Yes/No (1/2)
mmi

To
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2.The Assistant Revenue Officer,
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M.SUNDAR,J.,

mmi

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