IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.2144 of 2023
and
W.M.P.Nos.2233 and 2231 of 2023

Pushpavalli Suresh Babhu ... Petitioner

Vs.

1.Chennai Metropolitan Water Supply
& Sewerage Board,
Rep. by its Executive Director,
No.75, Santhome High Road,
R.A.puram, Chennai - 600 028.

2.The Special Tahsildar (R&R Act),
Chennai Metropolitan Water Supply
& Sewerage Board,
No.75, Santhome High Road,
R.A.puram, Chennai - 600 028.

3.The Area Engineer - XII,
Chennai Metropolitan Water Supply
& Sewerage Board,
No.1, New Street, Alandur,
Chennai - 600 016.

4.The Senior Accounts Officer,
Area - XII,
Chennai Metropolitan Water Supply
& Sewerage Board,
No.1, New Street, Alandur,
Chennai - 600 016. ... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the Metro Water Supply and Sewerage Tax Assessment of the Plot No.30, Old No.5, New No.9, Sundar Nagar - 1st Avenue, Ekkattuthangal, Chennai - 600 032 and the undated distraint order passed on the file of the 2nd respondent over the said property in C.M.C.No.12/158/04941/000 and quash the same as unlawful, arbitrary and not binding on the writ petitioner and consequently, forbear the respondents from taking any coercive action over the said property.

For Petitioner : Mr.P.B.Ramanujam

For Respondents : Mr.N.Paul Sunder Singh
Standing Counsel

ORDER

The petitioner has challenged a distraint order dated August, 2022 issued by the second respondent, calling upon the petitioner to pay a sum of Rs.1,80,504/- in respect of the arrears of water tax payable for II/2018-19 To I/2022-23.

2. As per the distraint order issued under the Tamil Nadu Revenue Recovery Act, 1864, the petitioner has been informed that if the amount due together with Surcharge and all expenses of distress be not immediately paid, the distraint property will be immediately brought to public sale.

3. The petitioner contends that he has neither received any notice nor received any assessment order, prior to the passing of the impugned distraint order. Therefore, according to him, the impugned distraint order has been issued arbitrarily and is illegal. The petitioner also contends that subsequent to the passing of the impugned distraint order, the petitioner has paid a sum of Rs.45,126/-, which, according to the petitioner, is the admitted amount.

4. Admittedly, no Statutory Appeal has been filed by the petitioner with regard to the assessment of the water and sewerage taxes. He has not challenged the distraint order, which is the final event. Necessarily, the petitioner will have to challenge the assessment by filing a Statutory Appeal before the Tax Appellate Tribunal. However, since the petitioner has

categorically contends that he has not received any notice / assessment, prior to the passing of the impugned distraint order and that too when the subject property which is threatened to be brought for public sale, is of a much higher value than the demand made by the respondent, an interim protection will have to be granted to the petitioner to enable her to prefer the Statutory Appeal before the Tax Appellate Tribunal and also seeks stay of the impugned proceedings.

5. This Court is of the considered view that one month time will suffice for the petitioner to file the Statutory Appeal before the Tax Appellate Tribunal. But, however, the petitioner must be put on terms for the same by directing her to deposit with the respondents a sum of Rs.50,000/- within a period of two weeks from the date of receipt of a copy of this order.

6. For the foregoing reasons, this Writ Petition is disposed of by directing the petitioner to deposit with the third respondent a sum of Rs.50,000/- within a period of two weeks from the date of receipt of a copy of this order without prejudice to the rights and contentions with regard to

the levy of the impugned amount as per the impugned distraint order dated August, 2022. The petitioner is also permitted to file the Statutory Appeal before the Tax Appellate Tribunal within a period of one month from the date of receipt of a copy of this order. For a period of one month from the date of receipt of a copy of this order, the impugned distraint order issued by the second respondent shall be kept in abeyance, subject to the condition that the petitioner deposits the aforementioned sum of Rs.50,000/- within the stipulated time. The Tax Appellate Tribunal shall entertain the Appeal filed by the petitioner without reference to limitation and shall also not insist upon payment of the pre-deposit amount. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

01.02.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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