



WEB COPY



W.P.Nos.10274 & 10278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.04.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.10274 & 10278 of 2023 and
WMP.Nos.10259 & 20263 of 2023

Cheran Properties Limited,
Rep. by its Authorised Signatory
Mr.S.Subramani
“Cheran Towers”
No.78, Government Arts College Road,
Coimbatore – 641 018.

... Petitioner in W.P.No.10274 of 2023

M/s.Cheran Chit Funds Private Limited,
Rep. by its Authorised Signatory,
Mr.VijayManoharan
Cheran Towers, No.78, Arts College Road,
Coimbatore – 641 018.

... Petitioner in W.P.No.10278 of 2023

Vs

The Commissioner,
Corporation of Coimbatore,
P-14, 1109, Big Bazaar Street,
Near TK Market, Town Hall,
Coimbatore – 641 001.

... Respondent in both W.P.'s

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuance of the impugned order Na.Ka.No.1886/2023/A11(M) dated 23.03.2023 passed by the respondent and



W.P.Nos.10274 & 10278 of 2023

quash the same and issue appropriate direction appointing a Special Enquiry Officer other than the present Commissioner, Corporation of Coimbatore to pass orders on the representation given by the petitioner dated 06.03.2023 by providing sufficient opportunity of personal hearing to the petitioner.

in both WP's

For Petitioner

: Mr.A.L.Somayaji, Senior Counsel
for M/s.Waraon and Sai Rams

For Respondent

:Mr.K.M.D.Muhilan
Standing Counsel

COMMON ORDER

Heard Mr.K.M.D.Mugilan, learned Standing counsel appearing for the Corporation of Coimbatore. The petitioner is in the 2nd round of litigation. The 1st round involved a challenge to a demand notice issued by the respondent, demanding property tax as per Coimbatore City Municipal Corporation Act, 1981 (in short 'Act') for various periods. This Writ petition came to be disposed on 09.03.2023, after hearing learned Senior Counsel for the learned counsel for the petitioner, Mr.N.Velmurugan, learned standing counsel for the Coimbatore Corporation.

2. The operative portion of the order is as follows:

" 4. In such circumstances, the following directions are issued:

i) The representation seeking vacancy remission dated 06.03.2023 shall be disposed after hearing the petitioner within a period of six (6) weeks from date of receipt of a copy of this order.



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W.P.Nos.10274 & 10278 of 2023

ii) The balance of the demand would not be enforced for a period of six (6) weeks or till the disposal of the representation, whichever is earlier.

iii) If there is any excess amount that is paid, based on the determination to be made by the authority, the same shall be adjusted as against future demands.

iv) Since learned counsel for the respondent would accede to the position that coercive recovery measures have been initiated by way of sealing of the property and disconnection of water and drainage connections, the clock shall be put back, that is, the premises shall be de-sealed and the water and drainage connections restored forthwith. ”

3. Thereafter, the petitioner states that it was never heard, the property not de-sealed and the water and sewerage connections not restored. Thus, none of the directions as set out by this Court have been followed. That apart, the respondent also appears to have inspected the property and no prior intimation was ever issued to the petitioner in this regard.

4. Learned Standing Counsel would, very casually submit, that the direction to de-seal and restore water and drainage connection was 'not noted'. However, the Officer, in the impugned order, has extracted the operative portion of this Court's order including the direction to de-seal and restore the water connection. This court is mystified as to how an Order could be incorporated without the officer having read the same in the first place.



5. As regards the personal hearing, it is the stand of the respondent counsel that a representation was filed by the petitioner on 14.03.2023 and they were heard at that time. If that were so, the impugned order would certainly have referred to the filing of the representation dated 14.03.2023 and what had transpired in the hearing. The order is silent on both the aspects. Hence, there is no merit in these submissions.

6. Once these points were brought out in the course of the argument, learned Standing Counsel would request that, the impugned orders be set aside and the matters be remanded to the file of the authority for hearing afresh. He also undertakes that the property would de-sealed and the water and drainage connection restored forthwith.

7. It would have been entirely a different matter had this request been made in the first instance. However, it is only after a detailed hearing in the course of which the above flaws in procedure and non-compliance came to light, that the respondent makes this submission. The respondent is hence put to terms and will remit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the Cancer Institute, Adayar, Chennai, within a week from today. The premises shall be de-sealed and water and sewerage connection restored within 24 hours from today. Let notice be issued to the petitioner, the petitioner heard and



W.P.Nos.10274 & 10278 of 2023

orders passed on the representation dated 06.03.2023, within a period of six(6) weeks from today.

8. These Writ Petitions are allowed in the above terms. No costs.

Connected Miscellaneous petitions are closed.

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03.04.2023

Index : Yes / No

Speaking Order / Non Speaking Order

Neutral Citation: Yes/No

To
The Commissioner,
Corporation of Coimbatore,
P-14, 1109, Big Bazaar Street,
Near TK Market, Town Hall,
Coimbatore – 641 001.



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W.P.Nos.10274 & 10278 of 2023

Dr.ANITA SUMANTH, J.

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W.P.Nos.10274 & 10278 of 2023 &
WMP.Nos.10259 & 20263 of 2023

03.04.2023