



W.P.No.25046 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25046 of 2022 and
W.M.P.No.23995 of 2022

M/s.DNS Plaza Vyabarigal Sangam,
Rep. by its President Sathish Kumar,
having registered office at Shop No.33,
Ground Floor, D.N.S.Plaza,
Nos.4 and 5, Nageswarar Road,
T.Nagar, Chennai – 600 017.

.. Petitioner

Vs.

1.The Special Tahsildar (R&R),
Chennai Metropolitan Water Supply & Sewerage Board,
Zonal Office – 10,
No.9, Muthukrishnan Street,
T.Nagar, Chennai – 600 017.

2.DNS Project Private Limited,
Rep. By its Managing Director,
Dinesh N Surana,
No.72, Harley Road, Kilpauk,
Chennai – 600 010.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus, to direct the 1st respondent to divide the
total Water and Sewerage taxes of Rs.8,35,546/- under Recovery Show



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Cause Notice dated 26.08.2022 in proceedings No.10/136/04379/000 issued by the 1st respondent into 88 in respect of 88 shops in the DNS Plaza and fix Rs.9,495/- for each shop and consequently direct the 1st respondent to receive Rs.2,18,385/- as Water and Sewerage taxes share of petitioner association's members 23 shops and consequently drop the action against the petitioner association members 23 shops as per the petitioner association's representation dated 07.09.2022.

For Petitioner : Mr.V.Anthony Elangovan Raj

For R1 : Dr.N.Paul Sunder Singh
Standing Counsel

For R2 : No appearance

ORDER

This Writ Petition has been filed to direct the 1st respondent to divide the total Water and Sewerage taxes of Rs.8,35,546/- in terms of recovery notice dated 26.08.2022 in proceedings No.10/136/04379/000 of the 1st respondent into 88 equal parts in respect of 88 shops in DNS Plaza and to fix a sum of Rs.9,495/- as water and sewerage tax for each shop and consequently direct the 1st respondent to recover from each of the occupants.



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2.The specific case of the petitioner is that there are about 88 tenants and that the 1st respondent along with 2nd respondent have acted in concert with the owner so that the petitioner and other tenants have vacated from the premises by disconnecting services. It is submitted that the 2nd respondent has failed to pay the taxes and therefore the demand notice has been issued on 26.08.2022.

3.It is submitted that if the 2nd respondent wants to vacate the members of the petitioner association, it is open for the 2nd petitioner to initiate appropriate proceedings under the provisions of The Real Estate (Regulation and Development) Act, 2016, to vacate the members of the petitioner association.

4.The learned Standing Counsel for the 1st respondent would submit that if there is a failure on the part of the 2nd respondent – owner of the property to pay the water tax as assessed and demanded, the proceedings under the Chennai Metropolitan Water Supply and Sewerage Act, 1978 can be initiated not only against the 2nd respondent, but also against the tenants, who are in occupation of the property under Section 62 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.



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5.It is further submitted that the owner and occupier of the premises are jointly and severally liable for payment of all the sums referred to in Sections 44 to 49, 56 and 57 of Section 62(2) of the Chennai Metropolitan Water Supply and Sewerage Act, 1978. Hence, the petitioners' cannot ask for *pro-rata* assessment and prays for dismissal of Writ Petition.

6.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent.

7.Section 62 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, provides for a machinery for recovering the amount from the owners as well as the occupants. In this case, the petitioner association has 88 members. There is no impediment for recovery on a *pro-rata* basis, as there are several tenants / occupants. Pursuant to an interim order of this Court dated 19.09.2022 as against the total demand of Rs.8,35,546/-, a sum of Rs.2,18,385/- has been paid.



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8. Since, the Authorities under the Chennai Metropolitan Water Supply and Sewerage Act, 1978 are only concerned with the recovery of amounts due and payable in terms of Sections 44 to 49, 56 and 57 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, Court is of the view that the amounts can be recovered not only from the owner of the property, but also from the occupiers. Since, there are more than one occupant and in this case about 88 occupants, it is open for the respondents to recover the amount of tax and other charges on *pro-rata* basis from the respective occupants after adjusting the amounts already paid pursuant to order of this Court. The petitioner shall give the particulars of its members to the 1st respondent regarding the amount paid and balance amount payable by its members. The petitioner and its members shall pay the proportionate amounts to the respondent and recover the balance amount by invoking the provisions of The Tamil Nadu Revenue Recovery Act, 1864, from the defaulting occupants.

9. The Writ petition is therefore disposed of with the above observations. In case, there is failure on the part of the petitioner on any of its member, the power under Section 74 of the Chennai Metropolitan



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Water Supply and Sewerage Act, 1978 can be resorted by the 1st respondent against individual occupants. Consequently, the connected

Miscellaneous Petition is closed. No costs.

01.09.2023

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

The Special Tahsildar (R&R),
Chennai Metropolitan Water Supply & Sewerage Board,
Zonal Office – 10,
No.9, Muthukrishnan Street,
T.Nagar, Chennai – 600 017.



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C.SARAVANAN, J.

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