



W.P.No.25001 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25001 of 2022

and

W.M.P.Nos.23939 & 25987 of 2022

S.Vasudevan

.. Petitioner

Vs.

1.The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Dr.Ranga Road,
Abhirampuram,
Chennai – 600 018.

2.The Area Engineer,
Area IX (Teynampet Zone),
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Dr.Ranga Road, Abhirampuram,
Chennai – 600 018.

3.J.Paramanandam

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to refrain from disconnecting the petitioner's essential utility connections such as supply of water and connection of sewerage of the petitioner's apartment at Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004.



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For Petitioner : Mr.S.Mukunth
Senior Counsel
for Mr.Krishna Kumar
for M/s.Sarvabhauman Associates

For RR 1 & 2 : Mr.N.Paul Sunder Singh
Standing Counsel

ORDER

This Writ Petition has been filed to direct the 2nd respondent to refrain the respondents from disconnecting the petitioner's essential utility connections viz., supply of water and connection of sewerage of the petitioner's apartment at Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004 on account of the default in payment of water tax and sewerage charges by the 3rd respondent.

2.The reasons for disconnecting the water and sewerage connection appears to be default in payment of the Chennai Metropolitan Water Supply and Sewerage Board Tax and charges by other owners in the Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004, where petitioner is one of the tenant.



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3.Regulations 24 to 27 of the Chennai Metropolitan Water Supply and Sewerage Tax (Levy And Collection) Regulations, 1991, enumerate the procedure to be followed by the 2nd respondent in disconnection and restoration of water / sewer connections and the same are extracted below:

“24. If any amount due on account of water tax and sewerage tax as determined under the Act and the regulations is not paid before the due date prescribed by the authorised authority, the Board shall issue a notice for cutting off water or sewer connection or both between any water or sewer works main or pipe line of the Board and the premises to which water is supplied or sewerage is provided giving a further grace time as decided by the competent authority.

25. If the taxes due to the Board are not paid even after the grace time as specified in the notices issued under Regulation 24, the authorized authority shall proceed to cut off water supply or sewerage connection.

26. Restoration of water supply or sewerage cut off under regulation 25 shall be done only after payment of the entire charges due together with a penalty of Rs.50/-(Rupees fifty only) and payment of all disconnection and reconnection expenses incurred by the Board. The authorised authority shall order reconnection after satisfying himself that all payments due have been made. The Board may at its discretion grant time for payment in exceptional cases.”

4.The learned counsel for respondents 1 & 2 submits that it is the



responsibility of the Association to collect the amount under the provisions of the Tamil Nadu Apartment Ownership Act, 1994 and pay the same to the Board. It is submitted that the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, makes it clear that the Board has power to initiate recovery proceedings from the occupants as land revenue.

5.It is further submitted that the respondents can recover the amount from the defaulting occupants / owners who have failed to pay the charges on account of the default committed by the 3rd respondent in paying the water and sewerage tax and water and sewerage charges to the 2nd respondent.

6.It is the case of the petitioner that there are 15 owners of the property. Only the 3rd respondent has failed to pay taxes and charges. It is submitted that it does not warrant disconnection of essential services.

7.The occupants of above mentioned Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004 are governed by the provisions of The Tamil Nadu Apartment Ownership



Act, 1994. As far as common facilities are concerned, it is the responsibility of the apartment owners to pay the amount to the Association that ought to have been formed in accordance with the provisions of The Tamil Nadu Apartment Ownership Act, 1994.

8.In case common water or sewerage connection is concerned, the respondents 1 & 2 cannot disconnect the services merely because some of the occupants either as owner or tenants failed to pay necessary charges as it would have an adverse impact on other co-owners / co-occupants of the Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004.

9.It is always open for the 2nd respondent to initiate appropriate proceedings under the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, to recover the amount due from the 3rd respondent as if it were a land revenue under the provisions of The Revenue Recovery Act, 1890. The said Act is applicable to the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 and the regulations made thereunder.

10.In fact, a learned Single Judge of this Court in the case of



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R.Narsimhan Vs. Area Engineer Area IX and another vide order dated 06.07.2016 in W.P.No.22892 of 2016, considered a similar case where the common water and sewerage connection was threatened to be disconnected owing to arrears of water and sewerage charges of few residents. The learned Single Judge held that disconnection of a common water / sewerage connection for default in payment charges by other apartment owners was not sustainable and directed the respondents to restore water connection immediately.

11.In **Cosmo Towers Owners' Association Vs. Chennai Metropolitan Water Supply and Sewerage Board and others** vide order dated 18.06.2009 in W.P.No.5351 of 2009, the Court held that where an association has been formed, the outstanding water tax charges have to be met by the Association promptly and reimbursement can be sought thereafter from the defaulting tenant.

12.As mentioned above, the individual occupants of the Hari Mansion, J P Avenue, No.1 Dr.Radhakrishnan Salai, 6th Street, Mylapore, Chennai – 600 004 cannot be put to inconvenience on account of default by the 3rd respondent. It is open for the respondents to recover the



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amount due from the 3rd respondent and other defaulting owners if any, in accordance with law and in the manner known to law.

13. Therefore, Court is inclined to allow the Writ Petition and is accordingly allowed with the above liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

01.09.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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C.SARAVANAN, J.



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