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W.P.No.9534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9534 of 2024
and W.M.P.No.10539 of 2024

Mylangam Eleswara Rao,
S/o.M.Rama Krishnaiah Chetty
18, Maude Street, VIC - 3129.
Melbourne Australia,
Represented by his duly authorized
Power of Attorney M.R.Koteswara Rao,
S/o.M.Ramanaiah Chetty,
Old No.111, New No.231,
Amman Koil Street, Kondithoppu,
Chennai 600 079.

... Petitioner

-vs-

1.The Secretary to Government,
Municipal Administration,
Urban and Water Supply Department,
Chennai 600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.



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3.The Assistant Revenue Officer,
Zone - V,
Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai 600 021.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice dated 19.03.2024 issued by the second respondent and quash the same as illegal, unsustainable in law and against all principles of natural justice and consequently direct the respondents 2 and 3 to remove the lock and seal effected in the ground floor portions comprising of shops in the building bearing Old No.111, New No.231, Amman Koil Street, Kondithoppu, Chennai 600 079 and also to refrain them from threatening the residential tenants to vacate the residential portions.

For Petitioner : Mr.C.P.Sivamohan

For Respondent 1 : Mr.C.Harsha Raj, AGP (T)



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For Respondents : Mr.P.Prithvi Chopda, SC (Corpn.)
2, 3

ORDER

A demand notice dated 19.03.2024 is challenged in this writ petition. The petitioner is the owner of the property bearing Old No.111, New No.231, Amman Koil Street, Kondithoppu, Chennai 600 079, which is assessed to property tax since the year 1933. Property tax had been fixed at Rs.25,000/- per half year. After the petitioner filed a writ petition earlier in W.P.No.6142 of 2010, property tax was revised downward to Rs.17,075/- per half year. During general revision, this was revised to Rs.38,895/- per half year. Upon receipt of the demand notice, the present writ petition was filed on the ground that the 15 day period prescribed by statute for a notice under Section 116A of the Tamil Nadu Urban Local Bodies Act, 1998 was not adhered to.



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2. Learned counsel for the petitioner invited my attention to the demand notice and pointed out that such notice was issued on 19.03.2024 and that the petitioner's property was sealed on 30.03.2024 without waiting for the mandatory 15 day period to elapse. He also points out that the property was measured on 12.01.2023, but that the revised half yearly property tax is not on the basis of such measurements. He further submits that the petitioner agrees to remit 50% of the demand under the impugned notice on 'without prejudice' basis.

3. Mr.P.Prithvi Chopda, learned standing counsel, accepts notice for the respondents 2 and 3. On instructions, he points out that no payments were made by the petitioner towards property tax after the period 2010-11. Therefore, he submits that the petitioner should be directed to pay at least 75% of the amount demanded under the impugned demand notice.



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WEB COPY 4. Section 116A of the Tamil Nadu Urban Local Bodies Act, 1998

prescribes a 15 day notice period before distraint or other recovery measures are undertaken. The demand notice is dated 19.03.2024 and the petitioner has asserted that the relevant premises was placed under lock and seal on 30.03.2024. Therefore, there is contravention of the statutory prescription. At the same time, it is noticeable from the DCB pertaining to the petitioner's property that no payments were made after the second half of 2010-11. In these circumstances, it is also just and necessary to protect the interest of the Corporation of Chennai.

5. Therefore, the impugned demand notice dated 19.03.2024 is set aside subject to the condition that the petitioner remits 50% of the amount demanded under the demand notice. Such payment shall be made within *two days* from the date of receipt of a copy of this order. Within *twenty four* hours from the date of receipt of such payment,



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the petitioner's premises shall be de-sealed.

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6. W.P.No.9534 of 2024 is disposed of on the above terms by leaving it open to the petitioner to assail the assessment in accordance with law. No costs. Consequently, W.M.P.No.10539 of 2024 is closed.

05.04.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

- 1.The Secretary to Government, Municipal Administration,
Urban and Water Supply Department, Chennai 600 009.
- 2.The Commissioner, Corporation of Chennai,
Rippon Buildings, Chennai 600 003.
- 3.The Assistant Revenue Officer,
Zone - V, Corporation of Chennai,
No.61, Basin Bridge Road, Chennai 600 021.



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SENTHILKUMAR RAMAMOORTHY,J

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