

(2016) 07 MAD CK 0057

In the Madras High Court

Case No : W.P.No. 23278 of 2016 and WMP. No. 19577 of 2016

Sakthi Recreation Cente

APPELLANT

Vs

Chennai Metropolitan Water Supply and Sewage Board

RESPONDENT

Date of Decision : 06-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 CTC 512

Hon'ble Judges : Mr. N. Kirubakaran, J.

Bench : Single Bench

Advocate : Mr. P. Valliappan, Advocate, for the Appellant; Mr. G. Janakiraman, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. N. Kirubakaran, J.—Mr. G. Janakiraman, learned Standing Counsel takes notice for the 1st respondent.

2. The petitioner is the tenant in respect of the 3rd and 4th floors of Old Door No.107, New Door No.146, Habibullah Road, Thiyagaraya Nagar, Chennai 17 under the 2nd respondent by virtue of a lease deed dated 01.07.2012. The 3rd respondent is owning basement, first floor and second floor of the same building. For non payment of the water and sewerage charges to the tune of Rs.10,38,496/- by the 3rd respondent, the 1st respondent has sought to disconnect the water connection to the premises in which the petitioner is occupying. It is the contention of the petitioner that they have already paid the statutory dues with respect to water and sewerage connection.

However, the water connection to the entire building was disconnected on 01.07.2016 without any prior notice. Hence, the petitioner is before this Court.

3. Heard Mr. P. Valliappan, learned counsel for the petitioner and Mr. G. Janakiraman, learned counsel for the 1st respondent. Notice to the 2nd and 3rd respondents is dispensed with taking into consideration of the fact that

disconnection sought to be done in respect of the portion under the occupation of the petitioner alone is to be decided in this writ petition.

4. It is an admitted fact that the petitioner had already paid water and sewerage charges in respect of their premises which is in their occupation till 2017, as evident from the receipt dated 19.05.2016. It is also an admitted fact that water connection has already been disconnected on 01.07.2016. When the petitioner had already paid the charges without any arrears, water and sewerage connection to the petitioner's portion cannot be disconnected.

5. The contention of the learned counsel for the 1st respondent is that the 3rd respondent has not paid the dues and the premises in the 1st floor and 2nd floor of the same building are kept in lock and key and therefore, they are not able to recover the amount. For the default committed by the 3rd respondent, the petitioner cannot be taken into task, especially when they have discharged their obligation in paying the charges payable in respect of the portion under their occupation. It is made clear that if the 3rd respondent is found to be in default, it is always open to the 1st respondent to take proceedings as against the 3rd respondent including attachment and auction their property or to proceed under the Revenue Recovery Act.

6. In view of the fact that disconnection of water connection for the default made by the 3rd respondent is not sustainable, the 1st respondent is directed to restore the water connection immediately before 04.30 p.m. provided the cheque given by the petitioner was honoured.

7. The writ petition is disposed of accordingly. No costs.

8. Connected miscellaneous petition is closed.