IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8813 of 2015
and
M.P.No.1 of 2015

M.Vairavasamy
S/o.Muthappa Nadar ... Petitioner

vs.

1.The Secretary,
Revenue Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.

3.The Assistant Revenue Officer,
Corporation of Chennai,
Kodambakkam (Zone No.10),
Chennai - 600 024. ... Respondents

Writ Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent made in the demand notice dated 09.02.2015 and quash the same as illegal and ultravires and consequently directing respondents to revise the levy of half yearly property tax vide Assessment No.05-065-1181-097 (New Assessment No.10-127-08179-000) at the rate of Rs.1,122/- on par with I/1998-99 assessment or at the present rate of Rs.1,679/- on par with the adjacent property vide assessment No.05-065-1161-023 as per the petitioner's representation dated 12.02.2015.

For Petitioner : Mr.S.Giritharan

For Respondents: Mrs.M.E.Raniselvam
Additional Government Pleader (Taxes) [R1]
Mr.B.B.Senthil Kumar [R2 & R3]

ORDER

Heard Mr.S.Giritharan, learned counsel for petitioner, Mrs.M.E.Raniselvam, learned Additional Government Pleader (Taxes) for first respondent and Mr.B.B.Senthil Kumar, learned standing counsel for respondents 2 and 3. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The property of the petitioner has been assessed to property tax vide Assessment No.05-065-1181-097 (New Assessment No.10-127-08179-000). According to the petitioner, the property tax was revised from Rs.1,122/- to Rs.4,345/- with effect from 1998-99 and the petitioner has paid the said amount till 2000-01 and thereafter, started paying Rs.1,122/-, the old rate. It is the case of the petitioner that the enhanced rate is arbitrary, that the neighbour in the same locality is paying lesser amount and when the petitioner tendered a sum of Rs.1,122/-, the same was not accepted by the Corporation.

3. This Court would have accepted the contention of the petitioner if the amount of Rs.1,122/- had been tendered through out and if the Corporation did not accept the same. When there is a dispute with regard to the amount, certainly this Court would have directed the respondent to accept the said amount and decide the dispute. In this case, the petitioner has voluntarily paid the amount of Rs.4,345/- from the year 1998-99 till 2000-01 and thereafter, proceeded to pay the old rate without any order of the authority concerned. The petitioner submitted that when the amount of Rs.1,122/- was offered, the respondent refused to accept the same. There is no evidence to show that the amount was paid under protest. Whenever an amount is tendered by the persons like the petitioner, the same will have to be accepted by the Corporation without prejudice to its right to proceed further. They cannot state that unless and until the arrears are paid, the amount tendered by the petitioner could not be accepted. In this case, the petitioner has paid the enhanced amount and thereafter, reduced the same on his own volition, which cannot be accepted. That apart, whether the neighbour in the same locality has been asked to pay a lesser amount of Rs.1,679/- and the same should be extended to the petitioner, are all question of fact which cannot be gone into by this Court. Hence, this Court is not inclined to grant the relief sought for by the petitioner.

This Writ Petition is dismissed. However, if any amount is tendered by the petitioner, the same should be accepted by the Corporation and it is open to them to demand for the differences in amount in terms of the provisions of the Act. Petitioner is entitled to prefer an appeal, if so advised, within a period of thirty days from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary,
Revenue Department,
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Fort St.George,
Chennai - 600 009.

2.The Commissioner,
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Chennai - 600 003.

3.The Assistant Revenue Officer,
Corporation of Chennai,
Kodambakkam (Zone No.10),
Chennai - 600 024.

+ 1 cc to Mr.B B. Senthilkumar, Advocate SR.17498

+ 1 cc Government Pleader Sr.17928

SAI((CO)
EU 15.04.2015