**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**C.M.S.A.No. 16 OF 2009**

Between:
K.Sudarsana Rao … Appellant

AND

Vijayawada Municipal Corporation,
Vijayawada,
Rep. by its Commissioner,
Jawaharlal Nehru Buildings,
Vijayawada. … Respondent

Date of Judgment Pronounced: 21-07-2015

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

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| 1. | Whether Reporters of Local newspapers may be allowed to see the judgment? | No |
| 2. | Whether the copy of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Lordship wish to see the fair copy of the judgment? | No |

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**C.M.S.A.No. 16 OF 2009**

**JUDGMENT:**

The appellant preferred the present appeal challenging the order dated 11-12-2008 passed in C.M.A.No. 44 of 2008 on the file of the Court of Principal Senior Civil Judge, Vijayawada (for short, 'the trial Court'), whereunder the appeal filed by the appellant was dismissed confirming the order passed by the respondent corporation.

The appellant is the assessee of the property bearing old assessment No. 13689 (new assessment No. 107791), Ward No. 13, Narravari Street, Vijayawada. The appellant's property was initially assessed to Rs.5,915/- and later it was enhanced to Rs.7,771/- by issuing endorsement dated 18-01-2008.

The appellant is the owner of house bearing D.No. 14-20-11, Narravari Street, Vijayawada. The respondent corporation, by virtue of G.O.Ms.No. 864 dated 26-11-007 issued under the provisions of Hyderabad Municipal Corporation Act, 1955 (for brevity, 'the Act of 1955'), enhanced the property tax to Rs.7,771/- per half year with effect from 01-10-2007. On receipt of notice, the appellant filed revision before the respondent corporation. The respondent corporation, following procedure under Section 222 of the Act of 1955, issued notice dated 23-01-2008 fixing date and time for appearance of the appellant either in person or through representative which is styled as 'Hearing Notice'. The appellant attended the enquiry on 25-01-2008 but, after hearing the appellant, the respondent corporation issued an endorsement confirming the proposed enhancement.

The main contention of the appellant is that the endorsement dated 18-01-2008 is totally bereft of any reasons for the proposed enhancement and it is only a printed *pro forma* filled up by authorities concerned. In the absence of any reasons, the endorsement dated 18-01-2008 confirming the proposed enhancement is not legal and prayed to set aside the order in view of non-compliance with the provisions of the Act of 1955.

The trial court dismissed the appeal on the ground that the appellant did not attend the enquiry even after receiving notice and concluded that the respondent corporation passed the order under challenge by following due procedure.

Assailing the judgment of the trial Court, the appellant preferred the present appeal.

The main contentions raised before this Court are that the observation of the trial Court that the appellant did not appear before the respondent corporation is apparently an error on the face of record and the further observation that the respondent corporation followed the procedure in assessing the property to tax is also an error.

Considering rival contentions and perusing oral and documentary evidence including decree and judgment of the Appellate Court, the only substantial question of law framed by this Court is thus:

> *"Whether the endorsement dated 18-01-2008 made by the respondent corporation confirming the proposed enhancement of assessment is in accordance with principles of natural justice?"*

The trial Court dismissed the appeal on the ground that the appellant did not attend the enquiry even after receiving notice. In fact, the material papers filed before the trial Court, more particularly docket sheet and the notice dated 23-01-2008, clearly disclosed that the appellant appeared before the Deputy Commissioner (Revision) on 25-01-2008 at 11 *a.m.* Thus, the finding of the trial Court is *ex facie* false.

One of the contentions of learned counsel for the appellant is that the endorsement dated 18-01-2008 is bereft of any reasons and, in the absence of any reasons, the same cannot be sustained.

This Court had an occasion to deal with a similar situation in ***Smt. Chennupati Swaroopa Rani Vs. Vijayawada Municipal Corporation, Rep. by its Commissioner, Vijayawada***[1], wherein this Court relied on ***Jampa Kutumba Lakshmi Vs. State of A.P., Rep. by Principal Secretary***[2] to hold that endorsement was held unsustainable as no reasons, in support of such demand, were found. This Court also relied on ***S.Shakuntala Vs. Additional Commissioner, MCH***[3], to hold that, under sub-section (3) of Section 223 of the Act of 1955, the result of disposal of the complaint should be communicated and that disposal of complaint by the corporation is bound to contain a reasoned order as Section 282 of the Act of 1955 entitles the assessee to challenge the order in an appeal before a judge as defined under the Act of 1955. In the instant case, the endorsement is silent as to confirmation of the proposed enhancement. If the principle laid down in the judgments referred *supra* is applied to the present facts of the case, the endorsement dated 18-01-2008 issued by the respondent corporation is against the principles of natural justice. In the case on hand also, as the endorsement does not contain any reasons, one has to search for the reasons on the basis of the record of the respondent corporation regarding the endorsement made. The mandate of both the decisions, referred to above, therefore, compels this Court to set aside the impugned endorsement dated 18-01-2008 by allowing the appeal while remitting the matter back to the respondent corporation for due consideration of objections and pass appropriate reasoned order on the objections and communicate the same to the appellant.

The appeal is, accordingly, allowed and the respondent corporation is directed to comply with the directions, as above, within a period of eight (8) weeks from the date of receipt of a copy of this judgment. The property tax being paid by the appellant during pendency of the proceedings before the trial Court as well as before this Court shall abide by result of the final orders to be passed by the Commissioner as directed above and the said amount shall be adjusted while issuing demand notice, if any, by the respondent corporation. Miscellaneous petitions pending in this appeal, if any, shall stand closed in consequence. No order as to costs.

***M.SATYANARAYANA MURTHY, J.***

Date: 21st July, 2015.

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[1] C.M.S.A.No. 53 of 2007

[2] W.P.Nos. 30390 & 31009 of 2012

[3] 1996 (2) ALD 283 (DB)