

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

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.11492 OF 2015

DATED:21.4.2015

Between:

M/s.Hotel Rizan Private Limited

D.No.5-3-919 & 920, M.J. Market

Goshamahal (North), Hyderabad

Rep. by the Managing Director

Mohd. Anwar

... Petitioner

And

Greater Hyderabad Municipal Corporation

Rep. by its Commissioner

Tank Bund, Hyderabad and another ... Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NO.11492 OF 2015

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ORDER: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

In the morning, we have taken up the matter for hearing. After noticing that action was taken by the respondent Greater Hyderabad Municipal Corporation (GHMC) and sealed the building in question intending to recover the alleged dues of property tax for an amount of Rs.77,85,622/-, we asked the learned Standing Counsel for the GHMC to take instructions as to what measures could be taken with regard to desealing and reopening of the premises in question, and report after lunch recess.

When the case is taken up after lunch recess, it is reported, and we are happy to note, that the GHMC has already reopened and desealed the property in question. We shall not be oblivious of the fact that the writ petitioner has not paid a single pie on account of property tax from the year 2008 till 2014, amounting to Rs.26,78,300/- on account of arrears and a sum of Rs.1,98,450/- being current due, apart from penalty component of Rs.49,08,872/-. It is alleged that no notice of hearing was given before assessing the property tax. However, it has been admitted fairly by the learned counsel for the petitioner that since 2008 no amount has been paid on account of property tax because the property is lying vacant and there has been no income and as such the aforesaid amount of property tax could not be paid. According to him, the property tax cannot be assessed at the higher rate under the law because the property is lying vacant.

We therefore dispose of the writ petition by the following order.

The order of demand made by the GHMC dt.12.1.2015 shall be kept in abeyance until the time as stated hereunder. The petitioner shall deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) with the GHMC, without prejudice to the rights and contentions of the parties, within four weeks from the date of receipt of a copy of this order. On such deposit being made, followed by a representation in writing, within fortnight from the date of the deposit the GHMC shall decide the application giving hearing to the petitioner by passing a speaking order. In the process, it will be open for the GHMC to review, recall or modify the order of demand as the situation warrants. If no such deposit is made nor any representation is made in terms of this order, in either of the situation, our order will stand recalled and set aside and the impugned order of demand will stand revive. After fresh order is passed, the amount so paid by the petitioner shall be adjusted and for the balance amount it will be open for the parties to take steps in accordance with law, as may be advised.

Pending miscellaneous petitions, if any, shall stand closed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

21.4.2015

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