HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.18157 OF 2015

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ORDER: *(Per Hon'ble the Acting Chief Justice Dilip B. Bhosale)*

Heard learned counsel for the parties.

Rule. By consent of learned counsel for the parties, the writ petition is heard for final disposal forthwith.

The writ petition impugns the notice dated 23.03.2015 (Annexure P2) whereby the petitioners were directed to pay the property tax as per the demand notices issued earlier. The petitioners have also prayed for a Writ of Mandamus challenging levy and demand of property tax vide the tax demand notice dated 06.11.2014.

The petitioners had filed writ petition bearing W.P.No.10104 of 2014 challenging the demand notices dated 20.12.2013, 13.03.2014 and 21.03.2014 for the period from 2005-06 to 2013-14. The writ petition was disposed of vide order dated 03.04.2014. The relevant portion of the order reads thus:

> "It appears that the writ petitioners before us filed an application under Section 88 of the Andhra Pradesh Municipalities Act, 1965 for granting exemption of payment of property tax. Admittedly, such application has not been disposed of in accordance with law till today. Keeping such application pending, valuation of the property has been revised and tax has been enhanced. Obviously, demand for payment of tax has been made.
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> We are of the view that the Municipal Authorities should have decided this application first before enhancing the property tax and for that matter, demanding payment of the same. We, therefore, direct that the demand notices issued by the respondents will be kept in abeyance till such time as directed by this Court. The Municipal Authorities shall serve notice to the writ petitioners for taking up hearing on the application under Section 88 of the

> aforesaid Act. In spite of notice, if the writ petitioners do not turn up for hearing, the issue will be closed chapter and in that case our order will stand recalled. In the event, the writ petitioners appear, the matter will be heard in accordance with law and decision shall be taken without being influenced by the earlier decision. In the process, if it is found that exemption, in the facts and circumstances of the case, cannot be granted, then the demand notices issued by the Municipal Authorities shall be operative. In the event, the exemption can be allowed, then notices shall be withdrawn automatically. The entire exercise shall be completed within a period of six weeks from the date of communication of this order."

From a perusal of the order dated 03.04.2014, it is clear that the municipal authorities were directed to hear and decide the petitioners' application under Section 88 of the A.P. Municipalities Act, 1965 (for short 'the Act') after granting an opportunity of being heard.

The learned counsel for the petitioners after inviting our attention to the notice dated 23.03.2015 submitted that though there was a specific direction issued by this Court vide order dated 03.04.2015 and though hearing took place before the Commissioner, he did not pass speaking order either rejecting or allowing their application under Section 88 of the Act. In the notice dated 23.03.2015, he submitted, a reference to rejection of application under Section 88 (1) (C) of the Act is made but the order was not served on the petitioners rejecting their application for exemption. The petitioners, therefore, he submitted, do not know the reasons why their application for exemption has been rejected.

On the other hand, learned Standing Counsel appearing for the respondent-Municipality submitted that no separate order is passed by the Commissioner and the outcome of the application is reflected in the notice dated 23.03.2015. He submitted that it is clear from the contents of the notice that their application has been rejected.

We have perused the notice and the order passed by this Court dated 03.04.2014.

We do not agree with the submission of the learned Standing Counsel for the respondent-Municipality. It is true that the notice dated 23.03.2015 clearly states that the petitioners are not entitled for grant of exemption under Section 88(1) (C) of the Act, but we do not find any reasons for rejecting their application. From the order of this Court dated 03.04.2014, it is clear as crystal that the municipal authorities viz., Commissioner was obliged to pass speaking order on the application filed by the petitioners under Section 88 of the Act. He ought to have read the order passed by this Court very carefully and passed separate order on the application under Section 88 of the Act. In view thereof, we dispose of the writ petition by the following order:

"The notice dated 23.03.2015 is set aside.

The municipal authority concerned shall decide petitioners' application under Section 88 of the Act afresh recording the reasons for taking the view that it proposes to take. It is needless to mention that the authority concerned shall communicate its order to the petitioners within a period of two weeks from the date of its decision. At this stage, learned Standing Counsel for the respondent-Municipality submits that the Commissioner shall decide the application, in terms of this order, within a period of six weeks from today. His statement is recorded and accepted. He undertakes to communicate this order to the Commissioner within a period of 10 days from today".

With these observations, Writ petition is disposed of. Rule is made absolute. No order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE,

ACJ

S.V.BHATT,

J

Date:23.06.2015

Stp/Lrkm