IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.1968 of 2011 & 28160 of 2016
and M.P.No.1 of 2011 & W.M.P.No.24294 of 2016

P.S.Sanahulla ... Petitioner in both W.Ps.

Versus

1. The Revenue Commissioner, Zone-I-X,
   Rippon Building, Chennai Corporation,
   Chennai - 600 003

2. The Assistant Revenue Officer,
   Zone-I-X, Rippon Building,
   Chennai Corporation,
   Chennai - 600 003 ... Respondents in both W.Ps.

Common Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notices in Se.Ma.A.Va.Thu/Special/2010-2011/26/10.11, dated 21.12.2010; Se.Ma.A.Va.Thu/Special/2016-17, dated 12.06.2016, respectively, quash the same and subsequently, direct the respondents to re-structure the property tax amount, as according to the provisions of the Chennai City Municipal Corporation Act, 1919.

For Petitioner in both W.Ps. : Mr. Kaviyanathan

For Respondent in W.P.No.1968/11 : Mr. B.B.Sendhil Kumar

For Respondent in W.P.No.28160/16: Ms. Kaarthikaa Ashok

C O M M O N O R D E R

Heard Mr.Kaviyanathan, learned counsel appearing for the petitioner, in both the writ petitions, and Mr. B.B.Sendhil Kumar, learned Standing Counsel, appearing for the respondents, in W.P.No.1968 of 2011 and Ms. Kaarthikaa Ashok, learned Standing Counsel appearing for the respondents in W.P.No.28160 of 2016.

2. These two writ petitions have been filed by the petitioner, questioning the demands issued by the

respondents / Corporation, claiming arrears of property tax. In W.P.No.1968 of 2011, the demand is for a sum of Rs.2,59,638.50. It is claimed that the petitioner is in arrears of the said tax for the period from the second half year 1998-99 to second half year 2010-11. When this writ petition was pending, recently a demand, along with warrant notice, was issued on 12.06.2016, claiming arrears of property tax from the first half year of 2000-01 and the tax claimed per half year is Rs.30,314/-. For the period from first half year 2008-09 to the first half year 2009-10, the respondents have given credit of the amount of Rs.19,000/- already paid and demanded the balance amount of Rs.11,314/- and from 01/2010-11 to 01/2016-17, the demand is at the rate of Rs.30,314/-.

3. The petitioner challenges the enhancement of the property tax, which was made pursuant to the revision (final) notice, dated 25.11.2015, in which, there was a proposal to fix the property tax at Rs.30,314/-. Ultimately, the matter was referred to the Lok Adalat, by the learned Principal Judge, City Civil Court, Chennai, in M.D.A.No.3 of 2006 and before the Lok Adalat, a settlement was arrived at, i.e., for the period from 01/2004-05 till the said date, namely, August 2006, the respondents had agreed that the property tax could be fixed at Rs.19,000/- per half year.

4. It is submitted by the learned counsel for the petitioner that there is no default committed by the petitioner in paying the tax and the entire amount has been paid at the rate of Rs.19,000/-, per half year.

5. If such is the case, the question of demanding the difference amount does not arise, that too, with retrospective effect from 1998-99. That apart, the impugned demand, dated 21.12.2010, does not give any particulars and it is a non-speaking demand without even providing an Annexure. In such a situation, the respondents have further complicated the matter by issuing another warrant notice, dated 12.06.2016, in which, they have claimed arrears of property tax from 1/2000-01. In the light of the fact that up to August 2006, the respondents have agreed before the Lok Adalat to fix the half yearly property tax at Rs.19,000/-, the demands made by the respondents / Corporation, claiming the difference of Rs.11,314/- up to the second half year 2005-06 stands set-aside.

5. So far as the demand made with retrospective effect from first half year 2006-07 onwards, it is seen that the demand has been made without doing any assessment on the property and without even providing an opportunity to the petitioner to contest the fixing of the annual value of the building. Thus, having completed the assessment, in a summary

manner, without affording an opportunity to the petitioner, the demand made by the respondents, which is impugned in W.P.No.28160 of 2016, has to be set-aside and it is set-aside accordingly.

6. Accordingly, both the writ petitions are allowed and the impugned demands are set-aside and liberty is granted to the respondents / Corporation to initiate fresh proceedings, only from the first half year 2006-07. It is needless to state that before making any assessment of the property tax, the respondents should inspect the property (after giving notice to the petitioner), issue a pre-assessment notice, and based on the inspection, provide opportunity to the petitioner to submit his objections and thereafter, complete the assessment in accordance with law.

7. The petitioner, during the pendency of these writ petitions, is said to have deposited a sum of Rs.1,00,000/-. This amount shall be adjusted after the fresh assessment is made in terms of the above directions. Till the above direction is complied with, the petitioner shall continue to pay the pre-revised property tax, i.e., at the rate of Rs.19,000/- per half year, without any default. No costs. Consequently, the connected MP and WMP are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Revenue Commissioner, Zone-I-X,
   Rippon Building, Chennai Corporation,
   Chennai - 600 003

2. The Assistant Revenue Officer,
   Zone-I-X, Rippon Building,
   Chennai Corporation,
   Chennai - 600 003

+1cc to M/s.Nathan and Associates, Advocate, S.R.No.50460
+1cc to Ms.Kaarthikaa Ashok, Advocate, S.R.No.49892
+1cc to Mr.B.B.Sendhil Kumar, Advocate, S.R.No.49799

W.P.Nos.1968 of 2011 & 28160 of 2016
& M.P.No.1 of 2011 & W.M.P.No.24294 of 2016

MG(CO)
CA(16/09/2016)