IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:23.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24429/2015 & MP.Nos.1 to 3/2015

M.Kumar .. Petitioner

Vs.

1.The Commissioner
Corporation of Chennai
Rippon Building,
Chennai 600 003.

2.The Assistant Commissioner
Zonal Office-12, Chennai
Corporation, Alandur,
Chennai 600 016.

3.The Assistant Revenue Officer
Zonal Office-12, Chennai
Corporation, Alandur,
Chennai 600 016. .. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandams calling for the entire records relating to the impugned order in Z.O.XII.R.D.C No.5402/2014 dated 09.07.2015 and final assessment order Z.O.XII.A.No.9/2015-1 dated 23.06.2015 under notice 10/15-16/1839 passed by the 3rd respondent, to quash the same and not to enforce or collect the property tax over and above the property tax at the rate of Rs.3212/- per half year as shown in the impugned order dated 09.07.2015 for the petitioner's premises bearing D.No.1. Vembuliamman Koil St., Pazhavanthangal, Alandur, Chennai 600114 comprised in Old S.No.35/1 part, New Survey Field No.78, in Block No.7, Ward No."A".[Prayer amended as per order dated 08.10.2015 in M.P.No.4/2015]

For Petitioner : Mr.Jagadeesan for
Mr.S.Sureshkumar
For Respondent : Mr.V.C.Selvasekaran

ORDER

Heard Mr.Jagadeesan, learned counsel for the petitioner and Mr.V.C.Selvasekaran, learned counsel appearing for the respondents and with their consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner owns a property at Door No.1, Vembuliyamman Koil St., Pazhavanthangal, Alandur Firka, Saidapet Taluk, Chennai-114. The said property is said to have consists of residential + commercial building and according to the petitioner, they are not effecting any new construction and he has been remitting property tax at the rate of Rs.3212/- per Half Year. The petitioner is aggrieved by the impugned orders dated 09.07.2015 as well as final assessment notice dated 23.06.2015 in terms of the amended prayer in the writ petition as amended by order dated 08.10.2015 in MP.No.4/2015. On a perusal of the impugned order dated 09.07.2015, it is seen that the building was inspected on 30.12.2014 in the presence of the petitioner and it was found that there is an existing building and also newly constructed building which were treated as Record No.1 and 2 and based on that, final notice dated 23.06.2015 has been issued in Form No.10. On a perusal of Form No.10, it is seen that though it is titled as a notice, it is not a final assessment. Therefore, based on the Record NO.1 and 2, the Final Assessment has been made and the petitioner had not been afforded with any opportunity as to how the property assessment should be revised or rather the annual value of the building was fixed. The purpose of this Court setting aside the earlier demand and remanding the matter for fresh consideration was to afford an opportunity to the petitioner and such opportunity should have been an effective opportunity and not in the manner as done by the respondents. It is not in dispute that the petitioner has been remitting the property tax at the pre-revised rate of Rs.3212/- per Half Year and till date, there are no arrears. Apart from that, it is stated that the respondent Corporation had taken three cheques from the petitioner and utilising one of those three cheques a sum of Rs.2 lakhs has been withdrawn from the petitioner's Bank Account, while the petitioner has issued stoppage of payment to his Bankers in respect of the two cheques. In the light of the above facts, this Court is of the view that the entire assessment has to be re-done after giving due opportunity to the petitioner.

3.Accordingly, the writ petition is allowed and the impugned orders are quashed and the matter is remanded to the 3rd respondent who shall conduct an inspection of the building after issuing notice to the petitioner and fixing the date of inspection. Pursuant to the inspection, the 3rd respondent shall pass a provisional assessment order clearly mentioning as to how he proposes to re-determine the annual value of the building and consequential property tax. On receipt of the provisional assessment, the petitioner is entitled to submit his objections and thereafter, order of final assessment should be passed wherein the 3rd respondent is entitled to demand the property tax. The above exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is submitted that out of the sum of Rs.2,00,000/- which has been realised by the Corporation based on the cheque issued by the petitioner, after adjustment, according to the petitioner, a sum of Rs.99,000/- is lying in excess. The said issue can also be considered while passing the final assessment order after following the directions issued in this writ petition. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sgl

To

1.The Commissioner
Corporation of Chennai
Rippon Building,
Chennai 600 003.

2.The Assistant Commissioner
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Corporation, Alandur,
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3.The Assistant Revenue Officer
Zonal Office-12, Chennai
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+1cc to Mr.S. Suresh Kumar, Advocate, S.R.No.35003

NRJK(CO)
EU(12/07/2016)