In the High Court of Judicature at Madras

Dated : 30.9.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.690 of 2010 and MP.No.1 of 2010

Dineshkumar ...Petitioner

Vs

The Commissioner, Corporation of Chennai, Chennai-3. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondent from receiving the illegal quantum of tax at Rs.18,680/- per half year from 1993 onwards, pursuant to the decree of the Civil Court in O.S.No.6334 of 2007 dated 26.3.2008.

For Petitioner : Mr.G.Appavu

For Respondent : Mr.K.Soundarajan

ORDER

Heard both.

2. The petitioner and his brother are the joint owners of the property comprised in door No.46, Perumal Koil Garden I Lane, Kondithope, Chennai-79. The building is stated to be more than 60 years old and no alterations or additions have been made for all these years. The property tax was initially fixed at Rs.4,437/- from 1/1998-99 and subsequently, it was revised to Rs.6,525/- from 2/1998-99.

3. The petitioner would state that they have given their objections. However, the same were not considered. Once again, during 2/2001-02, the property tax was revised to Rs.18,680/-. The petitioner and his brother gave objections repeatedly and even in 2007-08, no orders were passed on the said objections. Therefore, the petitioner and his brother filed a suit in O.S. No.6334 of 2007 on the file of the City Civil Court, Chennai, in which, though a notice was served on the Corporation of Chennai, they did not appear and ultimately, an ex parte decree was passed on 26.3.2008 declaring the enhancement of property tax from Rs.4,437/- to Rs.18,680/- without following the proper procedure to be illegal and unenforceable in law. The decree has become final and the Corporation has not taken any steps to set

aside the ex parte decree nor filed an appeal. In the light of the above facts, the respondent Corporation could not have demanded property tax at Rs.18,680/- per half year. If such demands were raised, the same are to be stated to be illegal.

4. It appears that in the interregnum, due to pressure exercised by the Corporation, the petitioner parted with some payments and the same have been adjusted in the accounts maintained by the Corporation without notice to the petitioner. The petitioner's consistent case is that he has not paid more than Rs.4,437/- per half year as property tax till date.

5. This writ petition was heard on three earlier occasions and orders were passed from time to time and today, the matter was posted for hearing the respondent as well as for perusing the files.

6. The learned Standing Counsel for the respondent, on instructions, would submit that in the light of the decree passed by the Civil Court, the respondent Corporation will redo the entire exercise once again and liberty may be granted.

7. The writ petition was filed in the year 2010. Though the respondent has been served, they have not filed any counter affidavit. The files have not been produced in spite of the directions issued on 28.9.2016. Thus, this Court, while granting liberty, would impose certain restrictions on the respondent, as to from which half year they will be entitled to revise the property tax, which are follows :

(i) Admittedly, there are no default in payment of property tax at the rate of Rs.4,437/- per half year till date;

(ii) The first enhancement was made during 2/1998-99 to Rs.6,525/-. That was challenged by the petitioner by giving objections, but no orders have been passed.

(iii) Therefore, it would reasonable for the petitioner to accept the enhancement for the period from 2/1998-99 to 2/2007-08. Hence, the respondent is not entitled to revise the property tax for the above period over and above Rs.6,525/- and the petitioner shall pay the differential balance i.e between Rs.4,435/- and Rs.6,525/-.

(iv) In so far as the period from 1/2008-09 is concerned, liberty is granted to the respondent to redo the assessment, for which, the building should be inspected in the presence of the petitioner and upon inspection, a pre-revision notice shall be issued to the petitioner and the petitioner's objections are to be called for and thereafter, on considering the objections, final orders of assessment shall be passed by giving reasons.

8. With the above directions, the writ petition shall stand disposed of. The petitioner is granted a month's time to pay the difference in property tax. No costs. Consequently, the above MP is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

The Commissioner,
Corporation of Chennai, Chennai-3.

1 cc to M/s. K. Soundararajan, Advocate, Sr. 56458

WP.No.690 of 2010
& MP.No.1 of 2010

PSK (CO)
kk 22/10