IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.8.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.3335 of 2013 & MP.No.1 of 2013

N.Vijayalakshmi ...Petitioner

Vs

1.The Commissioner, Corporation of Chennai, Ripon Buildings, Chennai-3.

2.The Assistant Revenue Officer, Zone No.8, Ward No.115, Kodambakkam, Chennai-24.

3.The Revenue Officer, Corporation of Chennai, Ripon Buildings, Chennai-3. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent relating to the order dated 8.11.2012 bearing reference Z.O. IX R.D.C.No.R1/8075/2012 and consequential final notice No.M/09/123/12-13/0301 dated 3.1.2013, quash the same and direct the respondents 1 and 2 to assess the property tax as per Section 137B of the Chennai City Corporation Act, 1919.

For Petitioner : Mr.A.S.Thambusamy
For Respondents : Mr.R.Arunmozhi

ORDER

Heard Mr.A.S.Thambusamy, learned counsel for the petitioner and Mr.R.Arunmozhi, learned Standing Counsel for the respondent Corporation.

2. The petitioner has challenged the order passed by the first respondent dated 8.11.2012, in and by which, the petitioner's appeal petition was dismissed and the petitioner has been directed to pay the revised property tax at the rate of Rs.3,580/- per half year from 1/1998-99.

3. The petitioner had a long drawn battle with the respondent Corporation in her attempt to ascertain the correct property tax payable. The petitioner received a notice dated 21.1.1998 proposing to revise the property tax per half year from Rs.494/- to Rs.2,231/-. In the said notice dated 21.1.1998, the petitioner was given liberty to file her objections. Accordingly, the petitioner filed her objections on 2.2.1998, which has been acknowledged by the office of the respondent Corporation on 3.2.1998, as evident from the date seal. Though separate orders were not passed based on the said objections, the property tax was collected for the period from 1/1993-94 to 2/1998-99. The respondent Corporation chose to collect tax at the rate of Rs.1,363/- per half year and that has been paid by the petitioner and acknowledged by receipt dated 29.12.1998 whereunder the petitioner paid a total sum of Rs.12,898/-.

4. At the relevant point of time i.e. during 1998, the property tax was to be assessed on a self assessment basis and the owners of the property had to file returns. The petitioner had filed returns and an acknowledgement has been given for filing the returns duly signed by the Revenue Officer, from which, it is seen that the petitioner filed returns on 29.12.1998, after which, the respondent Corporation made an assessment of the property and received tax at the rate of Rs.594/- per half year for 12 half years from 1998-99 to 2004-05 and also from 2004-05 to 2006-07.

5. At that stage, the petitioner received a notice dated 21.1.2011 proposing to revise property tax to Rs.3,580/- with retrospective effect from second half year 1998-99. The petitioner sent her detailed objections by way of an appeal petition to the Commissioner on 11.2.2011 contending that the proposed enhancement is illegal and contrary to the statutory provisions more particularly Section 137B of the Chennai City Municipal Corporation Act, 1919.

6. While the said appeal was pending, a demand was raised on the petitioner, which necessitated the petitioner to approach this Court by filing a writ petition in W.P.No.10415 of 2012. The said writ petition was disposed of on 17.4.2012 wherein this Court observed that the petitioner had already deposited Rs.45,000/- at the time of filing the appeal before the Commissioner. The Commissioner was directed to consider the appeal petition, pursuant to which, the impugned order has been passed.

7. The impugned order does not specifically deal with the contentions raised by the petitioner by relying upon Section 137B of the said Act. However, what had been stated was that the property tax was revised at Rs.2,231/- per half year vide general representation dated 10.11.1997. But, the petitioner had

been remitting only Rs.494/- per half year and the petitioner did not file her returns during general survey period and that the master data was not found. The records filed in the typed set of papers clearly show that the petitioner had filed her returns and they have been acknowledged on 29.12.1998. Therefore, if the master data is not available with the Corporation, the petitioner cannot be penalised.

8. That apart, after initial objections raised by the petitioner on 2.2.1998, the respondent Corporation itself started collecting only Rs.494/- per half year. Therefore, to state that the petitioner was paying lesser tax is untenable because the objections raised by the petitioner dated 2.2.1998 objecting to the revision of property tax from Rs.494/- to Rs.2,231/-, were deemed to have been considered in her favour, since, subsequently, the respondent Corporation has been collecting the property tax only at the rate of Rs.494/- per half year. Hence, the respondent Corporation cannot demand a difference in property tax or enhanced property tax from 1/1998-99. Thus, applying the provisions of Section 137B of the said Act to the facts of this case, I am of the view that a sum of Rs.3,580/- is payable by the petitioner only from 1/2007-08.

9. Accordingly, the writ petition is allowed and it is held that the petitioner is liable to pay half yearly property tax in a sum of Rs.3,580/- (Rupees three thousand five hundred and eighty only) from 1/2007-08. As the petitioner effected payment of Rs.45,000/- while filing the appeal before the first respondent and subsequently a sum of Rs.7,000/- pursuant to the orders of this Court, the said payments shall be reckoned and adjusted as against the balance property tax payable. To make things clear, the respondent Corporation is directed to intimate the details as to how the adjustments are being made. No costs. Consequently, the above MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner, Corporation of Chennai,
Ripon Buildings, Chennai-3.

2.The Assistant Revenue Officer,
Zone No.8, Ward No.115,
Kodambakkam, Chennai-24.

3.The Revenue Officer,
Corporation of Chennai,
Ripon Buildings, Chennai-3.

+ 2 ccs Mr.A.S. Thambusamy, Advocate SR.47391

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and MP.No.1 of 2013

RSY(CO)
Eu 09/09/16