IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.8.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.2652 of 2010 & MP.Nos.2 and 3 of 2010

P.Vijayalakshmi ...Petitioner

Vs

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

2.The Assistant Revenue Officer,
Zone VIII, Ward No.126,
Chennai-3. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 2nd respondent i.e. from the Assistant Revenue Officer, Revenue Department, Corporation of Chennai in Zone No.8, Ward No.126, by letter No.Ward Committee Office/ R.D./Bill No.1168 Ward 126 dated 22.1.2010 and quash the same.

For Petitioner : Mr.P.Subba Reddy
For Respondents : Mr.V.C.Selvasekaran

ORDER

Heard both.

2. The petitioner challenges the distraint proceedings initiated by the respondent Corporation for recovery of arrears of property tax with effect from first half year 2006-07 to second half year 2009-10.

3. The case of the petitioner is that at the relevant point of time, there was a dispute between the petitioner, who is the owner of the building and her tenant and without issuing notice to the petitioner, the respondents unilaterally revised the property tax.

4. It appears that so far, three revisions have taken place. Only when the petitioner came to know from the tenant that coercive action is being taken, she filed the writ petition.

5. The petitioner's contention is that she has paid the half yearly tax at the rate of Rs.38,124/- and a receipt dated 5.1.2008 evidencing payment of tax for the first half year 2006-07 to the second half year 2007-08 has been produced before this Court. Another receipt dated 5.6.2009 for payment of the same amount for the first half year 2008-09 has also been produced.

6. Thus, in the absence of any records produced by the respondent Corporation to show that the notice was served on the petitioner and procedure was adopted while revising the assessment, this Court is left with no option except to hold that the revision of property tax has been done without affording an opportunity to the petitioner.

7. In the light of the above, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent shall serve notice not only on the occupier of the building, but also on the owner namely the petitioner herein to the address at No.45, Padmanbhan Street, T.Nagar, Chennai-17. On receipt of the notice containing full details as to how the respondents propose to arrive at the annual value of the building, the petitioner is entitled to submit her objections, which shall be considered by the second respondent in accordance with law. In so far as the limitation aspect is concerned, the period, during which, this writ petition was pending i.e. from 5.2.2010 till the receipt of the certified copy of this order, shall stand excluded before any proceedings. It is needless to state that the petitioner, being the owner of the building, shall continue to pay the property tax at the pre-revised rate. No costs. Consequently, the above MPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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

2.The Assistant Revenue Officer,
Zone VIII, Ward No.126, Chennai-3.

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