

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2016

C O R A M

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

W.P.No.30677 of 2016 and
W.M.P.Nos.26580 & 26581 of 2016

Hospital Property Private Limited,
Rep. By its Managing Director Dr.U.Shankar Rau,
No.12, Jaffer Serang Street,
Chennai - 600 001. ...

Petitioner

Versus

- 1.The Commissioner
Corporation of Chennai
Rippon Building, Chennai - 600 003.
- 2.The Zonal Officer,
Zone-V Corporation of Chennai
Revenue Department,
Chennai.
- 3.The Revenue Officer,
Zone - V Corporation of Chennai,
Revenue Department, Chennai.
- 4.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road, Chennai-2.
- 5.The Divisional Engineer,
Chennai Metropolitan Water Supply
and Sewerage Board,
Zone-V No.1, M.C. Road,
Anna Park, Chennai - 21.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the records relating to the impugned order dated 12.09.2015 vide No.Z.O.V.R.D.C.No.R2/ANO.0075/2015 issued by the 2nd respondent to the petitioner, and quash the said proceeding and to direct the respondents to refund the excess tax with interest, which was collected from the petitioner pursuant to the impugned order vide Property Tax Bill No.05-060-01009-000/02-027-1217-000 in respect of the property bearing

Door No.10(12), Jaffer Serang Lane, Clive Battery, V.O.C. Nagar,
Chennai - 1.

For Petitioner
For Respondents
1 to 3

...Mr.H.Mohammed Farook
...Mr.T.C.Gopalakrishnan

For Respondents 4 & 5

...Mr.M.Jothikumar

ORDER

Heard Mr.H.Mohameed Farook, learned counsel for the petitioner; Mr.T.C.Gopalakrishnan, learned standing counsel accepts notice on behalf of the respondents 1 to 3 and Mr.M.Jothikumar, learned standing counsel accepts notice for CMWSSB. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner has challenged the notice issued by the 2nd respondent calling upon the petitioner to pay revised property tax by invoking the power under Section 137-B of the Chennai City Municipal Corporation Act, 1919 (CCMC Act). The petitioner's contention is that the property was used as a hospital by the petitioner right through from the year 1981 onwards and when the property tax was sought to be revised during the assessment year 1998-1999, the petitioner challenged the same and ultimately, the Taxation Appeal Tribunal, by order in T.A.No.56/2005, fixed the half yearly tax is at Rs.82,941/- with effect from 2/98-99. The petitioner would state that till date he has been remitting the said amount without default. While so, the respondents have initiated the impugned auction on the alleged ground that there is no change of usage except for certain minor repairs which are carried out in the building and the hospital has been let out as such to another person, who is also running a hospital and this lease arrangement was made only during April 2015. Further, the learned counsel would submit that the enhanced property tax has also been remitted by the petitioner without prejudice to the rights of the petitioner. The revised demand issued by the CMWSSB revising the water and sewerage tax has also been paid.

3.The learned standing counsel appearing for the respondents 1 to 3 submitted that after 1998-1999 the property tax has not been revised and the impugned proceedings is only a provisional notice for which the petitioner can file his appeal before the Commissioner raising all contentions and establishing their documents that there is no change of user. Thereafter, the Commissioner will consider his objections and pass appropriate orders.

4. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that the impugned proceeding is a Provisional Notice in Form No.7 where the respondent has proposed to increase half yearly tax to Rs.1,70,725/- with retrospective effect from first half year 2009-2010. Since this impugned notice has been issued in terms of Section 137-B of the CCMC Act, proper procedure for the petitioner is to file his objection/ appeal and establish that there is no change of user, no additional construction etc. However, to decide the petitioner's objection, it is a prerequisite that an inspection should be conducted and the documents produced by the petitioner to show that the lease arrangement was made only in June 2015 should also be considered. Accordingly, the petitioner is directed to submit his appeal as against the impugned proceedings to the 1st respondent within a period of three weeks from the date of receipt of a copy of this order, enclosing all documents to support of their objection and on receipt of the appeal, the 1st respondent shall authorise the Senior Officer to conduct an inspection of the building after due notice to the petitioner and after receiving an inspection report, the 1st respondent shall consider the entire matter along with documents that may be produced by the petitioner and pass a final order of assessment in accordance with law within a period of four weeks from the date on which the inspection is completed. Till then, the petitioner shall continue to remit the property tax and water and sewerage tax at the pre-revised rate. As it is stated that the petitioner has already been paid enhanced property tax and water and sewerage tax, such payment if made in excess would stand adjusted after the assessment is finally completed by the 1st respondent in terms of the above direction.

5. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते
-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sgl

To

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

2.The Zonal Officer,
Zone-V Corporation of Chennai
Revenue Department,
Chennai.

3.The Revenue Officer,
Zone - V Corporation of Chennai,
Revenue Department, Chennai.

4.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road, Chennai-2.

5.The Divisional Engineer,
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and Sewerage Board,
Zone-V No.1, M.C. Road,
Anna Park, Chennai - 21.

+1 cc to Mr.H.Mohammed Farook Advocate sr 49867

W.P.No.30677 of 2016

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सत्यमेव जयते
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