

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29856 of 2010

&

M.P.No.1 of 2010

Sumathi Selvaraj

... Petitioner

Versus

1. The Commissioner,
Chennai Corporation,
Rippon Buildings, Chennai-3.

2. The Assistant Revenue Officer,
Zone IV, Division 50,
Corporation of Chennai,
Chennai-82.

3. The Area Engineer,
Ara IV,
New Avadi Road,
Kilpauk Waterworks Road,
Kilpauk, Chennai-10.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the respondents, particularly that of the first respondent in Z.O.IV/RCD No.0123/2010, dated 28.11.2010 and quash the same as illegal and unlawful against the principles of natural justice, besides unsustainable and consequently direct the first respondent to dispose of the appeal filed by the petitioner dated 16.04.2009 in accordance with law, by causing appropriate measurement of the property in accordance with law.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : Mr.V.C.Selvasekaran
Standing Counsel

O R D E R

Heard Mr.T.R.Rajamohan, learned counsel appearing for the petitioner and Mr.V.C.Selvasekaran, learned standing counsel appearing for the respondents.

2. The petitioner in this Writ Petition has questioned the order passed by the first respondent, dated 28.11.2010, by which, the petitioner's representation was rejected and revised property tax has been arrived at.

3. The petitioner had earlier approached this Court by filing a Writ Petition in W.P.No.2193 of 2010, challenging the proceedings of the Metro Water and Sewerage Board, which threatened to disconnect the water and sewerage connection for non-payment of enhanced water and sewerage tax. In the said Writ Petition, the Court took into consideration that as against the original assessment of property tax, the petitioner has preferred an Appeal / representation to the Commissioner of Corporation of Chennai and directed the Appeal Petition to be disposed of. It is true that the Court did not specifically direct an opportunity of personal hearing to be granted.

4. However, in the impugned order, the first respondent has stated that the property was re-measured and it was found that there is change of usage. The petitioner would state that the property was not at all measured and no inspection was conducted and the petitioner is residing in the third floor of the property.

5. In such circumstances, if the petitioner had been afforded an opportunity to object to the report of re-inspection or personal hearing had been granted, the petitioner could have clarified all the points immediately. However, that having not been done, the respondent is now seeking to implement the revised assessment, dated 30.07.2010, made on the petitioner.

6. In my view, there is violation of principles of natural justice inasmuch as the petitioner was not put on notice as to what was the finding given by the Inspecting Authorities and that too, when the petitioner's case is that he is residing in the third floor of the building.

7. In the light of the above, the Writ Petition is disposed of, by directing the petitioner to treat the impugned proceedings, dated 28.11.2010, as a show-cause notice and submit his objections within a period of three weeks from the date of receipt of a copy of this order. On such objections being made, the first respondent shall nominate a Senior

Officer, who shall afford an opportunity of personal hearing to the petitioner or her authorized representative and pass fresh orders, on merits and in accordance with law. Till fresh orders are passed, the petitioner shall continue to pay the property tax at the pre-revised rate.

With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Commissioner,
Chennai Corporation,
Rippon Buildings, Chennai-3.
2. The Assistant Revenue Officer,
Zone IV, Division 50,
Corporation of Chennai,
Chennai-82.
3. The Area Engineer,
Ara IV,
New Avadi Road,
Kilpauk Waterworks Road,
Kilpauk, Chennai-10.

+1cc to Mr.T.S.Rajamohan, Advocate, S.R.No.44979

W.P.No.29856 of 2010
&
M.P.No.1 of 2010

PA(CO)
CA(24/08/2016)

WEB COPY