In the High Court of Judicature at Madras

Dated: 06.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.400 of 2017
and WMP No.429 of 2017

G.Danabalan

.... Petitioner

Vs.

1. The Executive Officer,
Kudavasal (Special Grade) Town Panchayat
Kudavasal, Nannilam Taluk,
Tiruvarur District, Post Code: 612 601.

2. The Assistant Director of Town Panchayats,
Collector Office, Thanjavur,
Thanjavur District - 613 001.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling upon the proceedings of the 1st respondent, who passed the impugned order in Assessment No.4912, dated 21.11.2016 for claiming the property tax from the petitioner, since the date of building plan approval on 27.03.2005 for the second half of assessment year 2005-06 to till date and quash the same as illegal and consequently direct the 1 and 2 respondents may be collect the property tax since the completion of building 01.10.2013 onwards.

For Petitioner : Mr.C.Nithysh Sekhar

For Respondent : Mr.Sundaramoorthy
for M/s.A.Rajaperumal, AGP-R1
Mr.Akhil Akbar Ali, G.A. - R2

O R D E R

1. Issue notice. Mr.Sundaramoorthy, accepts notice on behalf of respondent No.1, while Mr.Akhil Akbar Ali, accepts notice on behalf of respondent No.2.

2. With the consent of counsels for parties, the Writ Petition is taken up for hearing and final disposal.

3. This Writ Petition is directed against the notice dated 21.11.2016 issued by respondent No.1.

3.1. By virtue of the impugned notice, the annual value of the property has been pegged at Rs.1,62,811/-. Accordingly, the tax demanded of the petitioner has been crystallised at Rs.17,909/- per half Assessment Year.

4. Counsel for the petitioner says that while the petitioner is not aggrieved by either the annual value or the amount of tax indicated in the impugned notice, his grievance is with regard to the fact that the tax is demanded with retrospective effect and that too, since, the second half of Assessment Year 2005-06.

4.1. It is the petitioner's case, that the construction of the subject building, which is a Marriage Hall, was completed in, or about, December, 2013 and the licence under the Tamil Nadu Public Building Licensing Act, Act No.13 of 1965 (in short the '1965 Act') obtained in 2014. For this purpose, counsel for the petitioner relies upon the documents appended at page Nos.4 to 8 of the typed set of documents.

4.2. I may state, at the outset, the documents appended at page Nos.4 to 8 of the typed set of documents comprise of an application and a challan form dated 05.09.2014. The challan form is indicative of fact that the petitioner appears to have deposited a sum of Rs.5,000/- pursuant to his application for issuance of licence.

5. I have queried the counsel for the petitioner as to whether under the 1965 Act, the issuance of challan would satisfy, as there is no document evidencing that licence is issued. Counsel for the petitioner says that, challan represents issuance of a licence.

6. Mr.Sundaramoorthy, who appears for respondent No.1 and Mr.Akhil Akbar Ali, who appears for respondent No.2, on the other hand, are also not able to lend any clarity to clear the issue.

7. Apart from the aforesaid circumstance, it is clear upon a bare perusal of the impugned notice that respondent No.1 has indicated to the petitioner that, if, he were dissatisfied with the assessment made, he could prefer a revision petition with him, within 30/60 days of the service of the impugned notice.

8. Counsel for the respondents say that the impugned notice, in substance, a show cause notice and, therefore, revision petition in the form of objections to the impugned notice could be preferred to respondent No.1.

9. Accordingly, the Writ Petition is disposed of giving leave to the petitioner to prefer a revision petition with respondent No.1, within a period of ten (10) days from the date of receipt of a copy of the order.

9.1. The petitioner, will be at liberty to articulate his objections to the period of assessment before respondent No.1. Respondent No.1, after affording a personal hearing to the petitioner, will pass a speaking order.

10. In so far as the averment made before me that a licence has been obtained by the petitioner with regard to the subject building, if necessary, respondent No.1, will, inquire into the same.

11.Resultantly, connected Miscellaneous Petition shall stand closed as well. However, there will be no order as to costs.

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Assistant Registrar

/true copy/

Sub Assistant Registrar

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To

1. The Executive Officer,
Kudavasal (Special Grade) Town Panchayat
Kudavasal, Nannilam Taluk,
Tiruvarur District, Post Code: 612 601.

2. The Assistant Director of Town Panchayats,
Collector Office, Thanjavur,
Thanjavur District - 613 001.

+1cc to Mr.C.Nithysh Sekar Advocate SR.NO.1461.

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LRS(CO)
GN(27/01/2017)