IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.7437 of 2017
and
W.M.P.No.8088 of 2017

S.M.Sharmila ...Petitioner

Versus

1. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   E.V.R.Periyar Salai,
   Chennai.

2. The Assistant Revenue Officer,
   Revenue Department,
   Zonal Office-V
   Corporation of Chennai,
   Chennai - 600 021. ..Respondents

Prayer: Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 2nd respondent dated 17.10.2016 bearing No.C.C./Aa.Va.Thu.Spl./2016-2017 and quash the same.

For Petitioner : Mr.KM.Aasim Shehzad

For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

O R D E R

The petitioner is aggrieved against the impugned demand notice dated 17.10.2016 calling upon the petitioner to pay a sum of Rs.10,57,912/- being the arrears of property tax upto second half of 2016-2017.

2. Mr.T.C.Gopalakrishnan, learned Standing Counsel takes notice for the respondents and by consent of the parties, the main writ petition itself is taken up for final disposal.

3. Heard both sides.

4. The petitioner, claiming to be the owner of the subject matter property has filed the present writ petition challenging the demand notice for payment of arrears of property tax. According to the petitioner, the enhancement of property tax from Rs.50,292/- to Rs.1,10,125/- was made without giving any notice to the petitioner and that the respondents are not justified in demanding such enhanced rate of tax also with retrospective effect.

5. On the other hand, learned counsel for the respondents submitted that when Notice No.7 for revised assessment was issued on the petitioner as early as on 22.02.2016, the petitioner having not objected to the same so far, is not entitled to question the impugned demand notice, which is nothing but consequential proceedings.

6. Upon hearing the learned counsels appearing on either side and on perusal of the materials placed before this Court, it is seen that the petitioner was served with the revised assessment notice dated 22.02.2016 stating that the half yearly tax was sought to be revised at the rate of Rs.1,10,125/- and the petitioner, if aggrieved, can prefer an appeal before the Commissioner, Greater Chennai Corporation, within 15 days from the receipt of such notice. In this case, it is seen that the petitioner has not chosen to file any appeal and on the other hand has chosen to file the present writ petition only challenging the consequential demand notice dated 17.10.2016. I do not think, the petitioner is justified in challenging the consequential proceedings without challenging the main proceedings, namely, the revised assessment notice dated 22.02.2016. Needless to say if the petitioner is not agreeing with the enhancement, it is open to her to challenge the same before the appropriate Authority by way of filing an Appeal. Therefore, I am of the view that the petitioner has to agitate the matter before the Appellate Authority by filing an appeal against the proceedings dated 22.02.2016. However, as the petitioner has come before this Court and challenged the impugned proceedings belatedly and also considering the fact that the said revised assessment notice was issued as early as on 22.02.2016 and the time granted therein for making an appeal has also expired, the petitioner should be put on some terms for filing such an appeal before the Appellate Authority. Accordingly, the writ petition is disposed of by granting liberty to the petitioner to file an Appeal against the proceedings dated 22.02.2016 before the competent Appellate Authority within a period of three weeks from the date of receipt of a copy of this order subject to the condition that

the petitioner pays 35% of the demand amount to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of such payment and thereafter, on receipt of such appeal, the Appellate Authority shall consider the appeal and pass orders on the same on its own merits and in accordance with law, as this Court is not expressing any view on the claim made by the petitioner against the enhancement of property tax. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   E.V.R.Periyar Salai,
   Chennai.

2. The Assistant Revenue Officer,
   Revenue Department,
   Zonal Office-V
   Corporation of Chennai,
   Chennai - 600 021.

+1cc to Mr.T.C. Gopal Krishnan, Advocate, S.R.No.18851
+1cc to Mr.BFS Legal, Advocate, S.R.No.19986

SKS(CO)
EU 06.4.17