IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2017

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The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.21637 of 2017
and
W.M.P.Nos.22652 and 22653 of 2017

C.R. Vasanthi ...Petitioner

Vs.

1. The Principal Secretary and Commissioner
Greater Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2. The Zonal Officer,
Zone -8, Greater Corporation of Chennai,
No.36 B, Pullah Avenue
Shenoy Nagar,
Chennai - 600 030.

3. The Assistant Revenue Officer,
Zone -8, Greater Corporation of Chennai,
No.36 B, Pullah Avenue
Shenoy Nagar,
Chennai - 600 030.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records, pertaining to the revision order, dated 26.05.2017, including final assessment demand, dated 26.05.2017, issued by the second respondent, Zone Officer, Zone-8, Greater Corporation of Chennai, and to quash the same, and consequently, to direct the respondents not to encash the cheques collected from the petitioner's tenants.

For Petitioner : Mr. K. Mani
For Respondents : Mr. T. C. Gopalakrishnan Standing Counsel

O R D E R

Heard Mr. K. Mani, the learned counsel appearing for the petitioner, Mr. T. C. Gopalakrishnan, the learned Standing Counsel for the respondent/Corporation and Mr. S. Jagannathan, the Assistant Revenue Officer, Zonal Officer, Zone 8, Greater Corporation of Chennai (who is present in Court).

2. The petitioner is before this Court, challenging the final assessment order, dated 26.05.2017, assessing the property owned by the petitioner to half yearly tax of Rs.70,660/-, per half year, with retrospective effect from second half year 2009-10.

3. I have heard elaborately the submissions of the learned counsel for the parties and also heard the submissions of Mr. S. Jagannathan, the Assistant Revenue Officer, Zonal Officer, Zone 8, Greater Corporation of Chennai (who is present in Court).

4. The dispute regarding the property tax assessment arose from second half year 2001-02, when the property tax was revised from Rs.22,060 to Rs.31,312/-. At the relevant point of time, the petitioner has raised objections and the objections have been continuously submitted by the petitioner from the year, 2009 onwards. However, it appears that, those objections were not properly dealt with. Ultimately, during the year, 2015, when a notice was issued, demanding property tax at the rate of Rs.60215/-, per half year, with effect from II half year 2009-10, the petitioner approached this Court, by way of filing a Writ Petition in W.P.No.31710 of 2015. In the affidavit filed in support of W.P.No.31710 of 2015, the petitioner averred as to how the revision of property tax was unreasonable and exorbitant. The Writ Petition was disposed of, by order, dated 28.07.2016, by directing the respondent/Principal Secretary and Commissioner, Corporation of Chennai, to consider the petitioner's objections, dated 24.06.2009, 30.09.2011 and 31.01.2013, within a time frame. Subsequently, the petitioner sent a representation to the third respondent, dated 03.12.2016, pursuant to which, the Zonal Officer, Zone 8, Greater Corporation of Chennai, issued a notice to the petitioner, dated 26.05.2017, enclosing the impugned order of final assessment, dated 26.05.2017. Though in the Form 7 Notice, which is in the nature of provisional assessment, proposal was to levy Rs.60,215/- as half yearly tax with effect from II half year, 2009-10, the respondent increased the same to Rs.70,660/- while issuing the final assessment, dated 26.05.2017.

5. Thus, the entire procedure adopted by the Zonal Officer are flawed. The objections raised by the petitioner

have not been considered in true sense. The photographs of the building, existing as on today, was produced before me, which shows that the entire structure is an old dilapidated structure, with asbestos/tin roofing and extensively damaged during the recent cyclone (vardha typhoon). These aspects have to be definitely considered while making assessment of the petitioner's property.

6. The third respondent, who is present in Court, would submit that the reason for issuing the final assessment order, assessing the half yearly tax at Rs.70,660/- is account of the fact that the earlier assessments were under assessment.

7. The stand taken by the third respondent cannot be accepted for the reason that the building is an old building in a ruining state. It may be true that the building is situate at a very important area, (Villivakkam) that by itself, cannot be a sole ground to demand high rate of tax, since the value of the building is only one of the components for assessing the property tax and the formula adopted by the Rent Control Authorities for arriving at the fair rent for a building has to be adopted while fixing the property tax.

8. This Court observes that the petitioner should definitely agree for reasonable increase with retrospective effect with effect from second half year 2009-10, and obviously, not at the rate of Rs.70,660/-, which prima facie, appears to be excessive and exorbitant. In fact, this Court suggested that reasonable increase of property tax with effect from second half year 2009-10 would be between Rs.40,000 and Rs.45,000/- per half year. However, this matter has to be examined by the Zonal Officer, and since the Court is fully convinced that the entire proceedings are flawed on the account of the fact that there has been procedural infirmity, the impugned order requires to be interfered with and the matter to be remanded for fresh consideration by the third respondent.

9. For the above reason, the Writ Petition is allowed, the impugned final assessment order, dated 26.05.2017 is set aside and the matter is remanded to the third respondent for fresh consideration. The third respondent is directed to take note of the observation made in this order, and conduct a fresh inspection, and direct the petitioner to appear before him and pass a revised assessment orders with effect from second half year 2009-10, and such revision of assessment shall be reasonable, taking into consideration the age of the property, nature of building, occupancy etc., and fair value shall be adopted as property tax.

10. The direction issued herein above shall be complied with by third respondent within a period of fifteen days from

the date of receipt of a copy of this order. It is made clear that till orders are passed by the third respondent, in terms of the direction issued in this order, no coercive action shall be initiated against the petitioner or occupier of the premises.

10. It is stated that the third respondent has collected some post dated cheques, the details of which, are set out in the form of a tabulated column mentioned below :-

Sl.No.	Date of the Cheque	Cheque No.	Amount
1	04.09.2017	474091	Rs.50,000/-
2	10.09.2017	220027	Rs.40,000/-
3	30.09.2017	474093	Rs.50,000/-
4	30.09.2017	220032	Rs.70,000/-

12. The original post-dated cheques were handedover to this Court, which, in turn, have been handed over to the learned counsel appearing for the petitioner, who has received those cheques and given due acknowledgment, on the reverse of this Writ Petition.

13. In the result, the Writ Petition is allowed as per the terms indicated above. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.K. Mani, Advocate sr 58992
+1 Cc to Mr. T. C. Gopalakrihsnan, Advocate sr 59059.

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SK(CO)
sp(04/09/2017)