

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.5553 of 2010

and

M.P.No.1 of 2010

C.Devendra Prasad

... Petitioner

Vs.

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

2.The Revenue Officer,
Corporation of Chennai,
Chennai - 600 003.

3.The Asst. Revenue Officer,
Zone No.08, Corporation of Chennai,
Old Door No.117, New No.64,
N.S.K.Salai, Chennai - 600 021.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned provisional notice No.6 R.A.H.S.A. No.96/2008-2009 dated 29.07.2009 in respect of the property bearing Old No.157, New No.518, T.T.K. Road, Alwarpet, Chennai - 600 018, by the 2nd respondent pertaining to Bill No.0167 in Ward No.116 and quash the same and direct the respondents to continue to collect the existing rate of tax without any enhancement till the disposal of the representation/appeal/objection dated 15.07.2009 over the provisional notice.

For Petitioner : Mr.Inamdar Ameenur Rahman

For Respondents : Mr.R.Arunmozhi

ORDER

The petitioner is before this Court challenging a provisional notice issued by the respondent Corporation proposing to revise the property tax at the rate of 14,407/- per half year with retrospective effect from first half year 2004-2005.

2.The petitioner's case is that without conducting any inspection of the building and without ascertaining the correct facts, the revision notice has been sent and without considering the petitioner's objections sent through their counsel dated 26.02.2010, the respondent has initiated the distraint proceedings which has necessitated the petitioner to approach this Court by filing this writ petition.

3.At the time when the writ petition was entertained, an order of conditional stay was granted. Pursuant to which, the petitioner has paid 50% of the enhanced tax.

4.Counter affidavit has been filed by the respondents stating that when the officials of the Corporation went to inspect the property, there was a resistance. This averment is vehemently denied by the learned counsel for the petitioner. It is seen that pursuant to the impugned notice, which is only a provisional notice in Form No.6, the respondents have not passed a final order of assessment. Before doing so, the authority is expected to consider the petitioner's objections that may be raised to the provisional notice. This procedure has not been followed by the respondents, before initiating coercive action demanding higher rate of tax.

5.Considering the fact that the petitioner has been continuously paying 50% of the enhanced tax and the building having not been measured till date, the following order will not only protect the petitioner/assessee, but also safeguard the interest of Revenue.

6.Accordingly, there will be a direction to the respondents to inspect the petitioner's building after notice to the petitioner. During the course of inspection, the concerned officer shall clearly note the physical features of the building, the nature of occupancy, amenities provided etc. and prepare a report. The copy of the inspection report should be furnished to the petitioner. On receipt of the same, the petitioner is entitled to give their objections. After the objections are received, the appropriate authority of the respondent Corporation shall afford an opportunity of personal hearing and complete the assessment in accordance with law. Till the above procedure is completed, the petitioner shall continue to remit the property tax at the rate of 50% of the proposed enhanced rate without fail.

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

Sgl

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

- 1.The Commissioner,
Corporation of Chennai,
Chennai - 600 003.
- 2.The Revenue Officer,
Corporation of Chennai,
Chennai - 600 003.
- 3.The Asst. Revenue Officer,
Zone No.08, Corporation of Chennai,
Old Door No.117, New No.64,
N.S.K.Salai, Chennai - 600 021.

+1 CC to Mr.R.Arunmozhi, Advocate Sr.No. 75782

+2 CC to Mr.Inamdar Ameenuir rahman , Advocate Sr.No.
75836

सत्यमेव जयते

W.P.No.5553 of 2010

MSM (CO)
MLT 22/11/2017

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