

In the High Court of Judicature at Madras

Dated: 16.02.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.3791 of 2017
& WMP No.3862 of 2017

- 1 Mrs.Sunita Gupta
Old No.2 New No.3 R.K.Mutt Road Luz
Corner Mylapore Chennai 600 004
 - 2 Mr.Mohit Gupta
Old No.2 New No.3 R.K.Mutt Road Luz
Corner Mylapore Chennai 600 004
 - 3 Mr.Akash Gupta
Old No.2 New No.3 R.K.Mutt Road Luz
Corner Mylapore Chennai 600 004
- Petitioners

Vs

- 1 Assessment Officer
Revenue Department Greater Chennai
Corporation Chennai 600 028
 - 2 The Commissioner
Revenue Department Greater Chennai
Corporation Chennai 600 028
 - 3 Assistant Revenue Officer
Zone IX Corporation of Chennai No.1 Lake
Area 4th Cross Street Nungambakkam Chennai
600 034
- Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to call for the records pertaining to the impugned Demand notice Ma.-9/V.T. N.K. No.R1/Special/ 2017 dated 13.01.2017 issued by the 3rd Respondent and quash the same as illegal as against the principles of natural justice and fair play.

For Petitioner : Mr.S.R.Raghunathan

For Respondents: Mr.T.C.Gopalakrishnan

O R D E R

1. Issue notice. Mr.T.C.Gopalakrishnan accepts notice on behalf of the respondents.

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

2. This is a second round of litigation. In the first round, the petitioners had approached this Court to challenge the demand notice dated 29.09.2016 (signed by the Commissioner, Revenue Department on 30.09.2016). The said Writ Petition was numbered as W.P.No.44708 of 2016.

3. This Writ Petition was disposed of vide order dated 02.01.2017. The operative directions issued in the said order were as follows:

"...7. Mr.T.C.Gopalakrishnan, who appears for the respondents, to my query, says that the impugned notice can be treated as a show cause notice and once, the petitioners file their objections to the same, order can be passed by respondent No.2.

8. To be noted, this query, I have put to the learned counsel for the respondents, as at the end of the impugned notice, it is stated that the assessee can prefer an appeal to the Commissioner, Greater Chennai Corporation/respondent No.2, within a period of fifteen (15) 4 days. Learned counsel for the respondents informs me that the impugned notice is, in fact, a show cause notice, and that, it is in the usual course adjudicated upon by the Commissioner, Greater Chennai Corporation. In other words, in a sense, the use of the word "appeal" in the impugned notice appears to be a misnomer.

9. Accordingly, the writ petition is disposed of, with a direction to the petitioners to prefer their objections to the impugned notice within a period of three (3) weeks, from the date of receipt of a copy of the order. Upon receipt of the objections, respondent No.2 will pass a speaking order, after giving personal hearing to the petitioners in the matter. Resultantly, pending application is closed. There will be no order as to costs. "

4. It appears that the petitioners, thereafter, preferred objections dated 10.01.2017. These objections, apparently, were sent by post on 13.01.2017.

5. I am informed by the learned counsel for the petitioners that the said objections were delivered in the office of the Commissioner, Revenue Department on 18.01.2017.

6. It appears that, in the interregnum, the impugned distraint notice dated 13.01.2017 got issued to the petitioners.

7. Mr.T.C.Gopalakrishnan, who appears for the respondents, says that in view of the directions passed by this Court on 02.01.2017, the impugned distraint notice can be ignored by the petitioners and that the respondents will comply with the directions contained in the order dated 02.01.2017.

8. The above-said statement made by Mr.T.C.Gopalakrishnan is taken on record.

9. Needless to say, that in view of the statement made, no coercive measures will be taken against the petitioners pursuant to the impugned distraint notice dated 13.01.2017.

10. The second respondent will dispose of the objections filed by the petitioners, as directed in the order dated 02.01.2017.

11. The Writ Petition is, accordingly, disposed of.

12. Resultantly, the connected Miscellaneous Petition stands closed. However there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

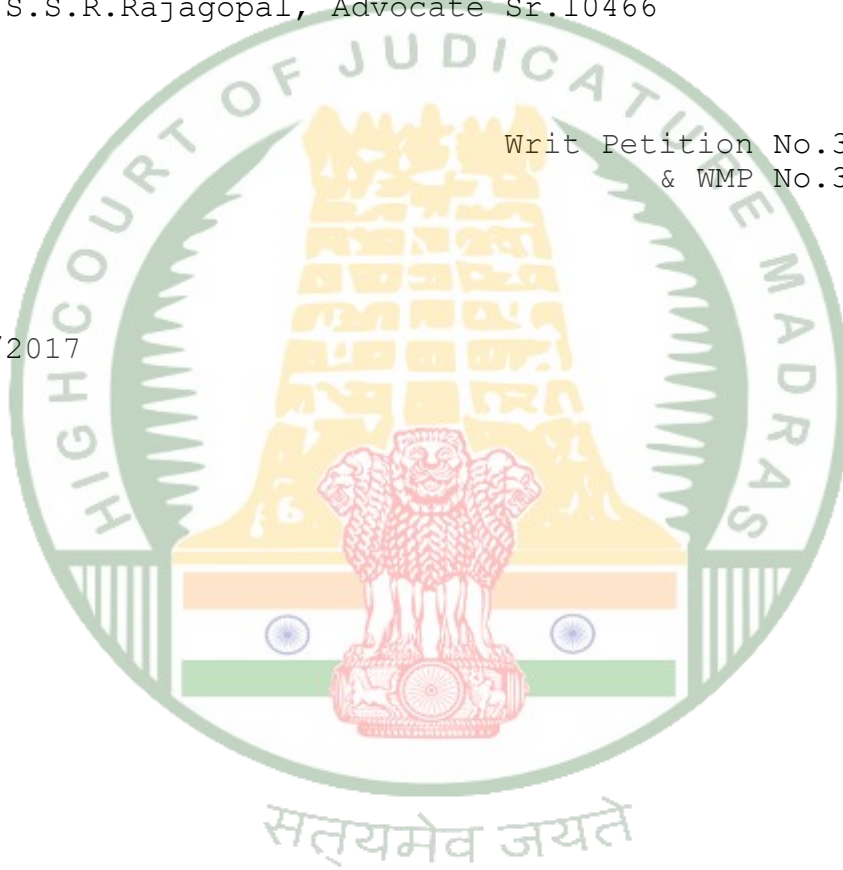
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+1cc to M/S.S.R.Rajagopal, Advocate Sr.10466

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