IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.10.2017
CORAM

The Honourable Mr. Justice T.S. Sivagnanam

W.P.No.26411 of 2017
and
W.M.P.Nos.28077 and 28078 of 2017

R. Palaniappan ...Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Park Town, Chennai-600 003.

2. The Deputy Commissioner (R & F)
Corporation of Chennai,
Ripon Buildings,
Park Town, Chennai-600 003.

3. The Assistant Revenue Officer,
Zone – 9 (Ward 119)
Corporation of Chennai,
Nungambakkam,
Chennai – 600 034. ...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in the notice dated 20.09.2017, under Rule 21 of the Taxation Rules, Schedule to the Chennai City Municipal Corporation Act, 1919, on the file of the third respondent, and to quash the same.

For Petitioner : Mr.P.B. Balaji

For Respondents : Mrs.Karthikaa Ashok
Standing Counsel.

O R D E R

Heard Mr. P.B. Balaji, the learned counsel appearing for the petitioner and Mrs.Karthikaa Ashok, the learned Standing Counsel, accepting notice on behalf of the respondents. With consent of the learned counsel appearing on either side, this Writ Petition is taken up for disposal.

2. The petitioner, who is the owner of the building, consisting of residential and non residential premises is before this Court, challenging the distraint notice issued to the petitioner, alleging that the petitioner has defaulted in payment of property tax.

3. It is not disputed by the respondent/Corporation that the petitioner has been regularly remitting the property tax at the rate of Rs.18,334/- upto I/2016-17. It is the case of the petitioner that, when he went to remit the property tax for the II/2016-17, the respondent/Corporation refused to receive the same, stating that the petitioner has to clear the remaining of property tax, as the respondent/Corporation has revised the property tax to Rs.89,295/- with effect from II half October, 2011. The online data available in the Official Website of the respondent/Corporation shows that the property tax of Rs.18,334/- paid by the petitioner has been adjusted as against Rs.89,295/-, which, according to the respondent, is revised property tax, and the others has been demanded for the period from II/2000-2001 to I/2016-17, and total amount of Rs.89,295/- has been demanded. For the II/year 2016-17, the petitioner specific case is that, before revision of property tax, no procedure was followed, and the petitioner did not have notice, as required to be issued under Rule 21 of the Taxation Rules of the Madras City Corporation Taxation Act, 1919.

4. Record of the proceedings shows that, except, for the distraint notice, there appears to be no procedure adopted before revision of the property tax. The petitioner would state that the commercial portion of the building was built in the year 1962, and as of now, it is 55 years old. The residential portion, where the petitioner resides, is about 90 years old. Further, the building in a dilapidated condition, and the photographs of the building shows that the Chennai Corporation has put up a Placard, warning the public not to dumb garbage in the petitioner's property. This is a clear indicator to show that the building is in dilapidated condition, and it is rather surprising as to how, the property tax has been revised more than five times.

5. Be that, as it may, before any revision of property tax is done, the procedure contemplated under relevant Rules has to be adhered to. This requires an inspection of the building in the presence of the owner, and proper revision of assessment proceedings have to be followed. This, having been not done in the instance case, the question of initiating the distraint

proceedings does not arise.

6. For all the above reasons, the Writ Petition is allowed, the impugned order is quashed, and the respondent/Corporation is directed to accept the property tax for the II/2016-17, at the rate of Rs.18,334/-. There will be a direction to the appropriate Authorities of the respondent/Corporation to cause inspection of the petitioner's buildings after issuing notice to the petitioner, and based on the inspection, and taking note of the physical feature of the building, age of the construction, amenities provided, land appurtenant to the building etc., issue provisional notice of assessment on revised assessment of property tax. The petitioner is entitled to file their objections to such provisional notice, after which, final assessment order shall be passed in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

bri/sd

To
The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Park Town, Chennai-600 003.

2. The Deputy Commissioner (R&F)
Corporation of Chennai, Ripon Buildings,
park town, chennai 600 003

3. The Assistant Revenue Officer,
zone 9(ward)119, corporation of Chennai
nungambakam, chennai 34

+1cc to Mr.karthika Ashok Advocate, S.R.No. 72906

+1cc to Mr.P.B.Ramanujam Advocate, S.R.No. 72924

W.P.No.26411 of 2017

PVS(CO)
TR(24/11/2017)