IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27067 of 2017
and
W.M.P.No.28884 of 2017

Mrs.A.Bharathi .. Petitioner

Vs.

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

2. The Judicial Officer,
 Taxation Appeals Tribunal,
 Corporation of Chennai,
 Park Town, Chennai-600 003.

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

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

5. The Manager-Depot,
 CMWSSB,
 No.1, Pumping Station,
 Chintadripet, Chennai-600 002.

6. The Area Engineer,
 Zone-8, CMWSSB,
 No.227, 2nd Avenue,
 12th Main Road, Anna Nagar,
 Chennai-600 030. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to forbear the respondents 1 and 3 to 6 or their officials or servants from taking any coercive steps pertaining to the petitioner's property bearing New No.86, Old No.16, 'J' Block, Anna

Nagar,Chennai-600 102 and basic amenities enjoyed thereto, pending disposal of Appeal in T.A.T.No.88 of 2009 on the file of the second respondent.

For Petitioner : Ms.R.V.Gayathri for M/s.P.B.Ramanujam
For Respondents : Mr.T.C.Gopalakrishnan for RR-1 to 4
Mr.M.Jothikumar for RR-5 & 6

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to forbear the respondents 1 and 3 to 6 or their officials or servants from taking any coercive steps pertaining to the petitioner's property bearing New No.86, Old No.16, 'J' Block, Anna Nagar,Chennai-600 102 and basic amenities enjoyed thereto, pending disposal of Appeal in T.A.T.No.88 of 2009 on the file of the second respondent.

2. It is the case of the petitioner that she is the owner of the property bearing New No.86, Old No.16, 'J' Block, Anna Nagar, Chennai-600 102 and she has let out the same to tenants, who are running business. Statutory taxes, namely property tax, water tax and sewerage taxes and charges in respect of the property had been paid. The first respondent chose to revise the tax with retrospective effect from the second half of 1998-99 in 2002. There was periodical revision of tax. Aggrieved by the determination, an appeal was preferred before the second respondent-Tribunal, which was allowed, confirming the half-yearly tax @ Rs.1,09,615/- with effect from the second half of 1998-99 to the first half of 2001-02 and dismissing for the subsequent period, namely from the second half of 2001-02 onwards. Challenging the same, the petitioner preferred appeal in M.T.A.No.39 of 2009 before the Principal Judge, City Civil Court, Chennai, which was allowed, setting aside the demand of tax with retrospective effect and the matter was remanded to the second respondent with a direction to give proper notice to the petitioner along with working sheet and to fix the half-yearly tax in accordance with law, after considering the objections in T.A.T.No.88 of 2009. That being the case, the petitioner received notice from CMWSSB demanding the petitioner to pay the amount of arrears of tax. According to the petitioner, when the original order fixing the half-yearly tax, had been interfered with by the Civil Court, the demand made by anyone much less the CMWSSB, is based on the amount that was already set aside, is incorrect. It is further stated that the petitioner has been paying 50% of the demand amount. It is further stated by the learned counsel for the petitioner that the entire procedure adopted by the respondents in demanding the amount, is illegal and that they should be forborne from demanding the amount, as the issue has not attained finality.

3. Even though no counter affidavit has been filed by the respondents, learned counsel for the petitioner has filed a working sheet, dated 08.11.2017, before this Court, and after referring the same, the learned counsel for the respondents drew the attention of this Court to the said working sheet and submitted that an order was passed by the Principal Judge of the City Civil Court, remanding the matter to the second respondent-Tribunal and the original authority has determined the amount on 29.06.2017 after giving due opportunity to the petitioner and a copy of the working sheet therein was also furnished to the petitioner along with the said order dated 29.06.2017. Hence, learned counsel for the respondents submitted that the relief sought for by the petitioner does not exist as on date, as an order has been passed by the Assistant Revenue Officer, who is the original authority and if the petitioner is aggrieved by the same, it is open for her to challenge the same before the Tribunal.

4. Heard both sides and perused the materials available on record.

5. The contention of the petitioner could be correct, if no order is passed after the order of the Principal Judge of the City Civil Court. If there is any demand based on the original authority's order, certainly this Court would have granted the relief sought for by the petitioner. In this case, after the remand order of the Principal Judge of the City Civil Court, there is an order passed on 29.06.2017 giving the break-up details by means of a working sheet therein and the amount has been determined to be paid by the petitioner. Based on that amount, the CMWSSB also demanded the amount payable as tax arrears and surcharge. If the petitioner is still aggrieved by the subsequent order, it is open for her to challenge the same in accordance with law and the contention that the authorities are demanding the amount of tax arrears based on the original order that was set aside by the City Civil Court, is not correct. The petitioner is bound to pay the amount based on the subsequent order dated 29.06.2017. The order that is now being passed in this Writ Petition will not preclude the petitioner from challenging the said order dated 29.06.2017, in accordance with law, if she is so aggrieved. If any amount is lying in deposit pursuant to the order of this Court, the same will be given credit to and if there is any balance amount that is due from the petitioner, the same shall be paid by the petitioner within a period of four weeks from the date of receipt of a copy of this order. If any excess amount is lying in deposit subsequent to any payment made by the petitioner, the same shall be adjusted by the respondents, in future assessment.

6. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.TC.Gopalakrishnan, Advocate Sr.No.79117/2017
+1cc to Mr.P.B.Ramanujam, Advocate SR.No.79095/2017

W.P.No.27067 of 2017

SM:27.11.2017

08.11.2017

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