IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.17415 of 2010

The Tamil Radhasoami Satsang Association,
Rep. by its Madras Branch,
having its office at
No.13, Kennet Lane,
Egmore, Chennai-8
Rep. by its Branch Secretary
Guru Prasad
.. Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-3.

2.The Revenue Officer,
Corporation of Chennai,
Zone-VII, Rippon Building,
Chennai-3.

3.Chennai Metropolitan Water
Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai-2
Rep. by its Managing Director .. Respondents



Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the enhancements in Property Tax since 1998 and water tax since 1993 from R1 and R3 respectively and quash the enhancements and the final order of the 2nd respondent No.R.D.[HQ] C.No./Spl./2010 dated 31.05.2010 and the JAPTI notice dated 09.07.2010 from the 3rd respondent, further to direct the respondents 1 to 3 to assess the Property Tax and Water Tax in respect of the premises bearing Door No.26, Old No.486, Pantheon Road, Egmore, Chennai-8 taking into consideration, the Award of Lok Adalath dated 12.04.2007 in M.T.A.No.43 of 2006 and after giving reasonable opportunity to the petitioner.

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| For Petitioner | : | Mr.K.S.V.Prasad |
| For R1 and R2 | : | Mr.K.Soundararajan |
| For R3 | : | Mr.M.Jothikumar |

O R D E R

Heard Mr.K.S.V.Prasad, learned counsel for the petitioner and Mr.K.Soundararajan, learned Standing Counsel for the respondent-Corporation.

2. The petitioner is an Association registered as a charitable organization and affiliated to Radhasoami Satsang Sabha, Agra, Uttar Pradesh. The present Writ Petition has been filed praying for issuance of Writ of Certiorari to quash the final order passed by the 2nd respondent dated 31.05.2010 and the Japti Notice issued by the 3rd respondent-Metro Water dated 09.07.2010 in respect of the premises bearing Door No.26, Old No.486, Pantheon Road, Egmore, Chennai and assess the Property Tax and Water Tax, taking into consideration the Award passed by the Lok Adalat dated 12.04.2007 in M.T.A.No.43 of 2006.

3. Though the matter had a chequered history, the disputes which arise for consideration lies in a narrow compass. The property originally belonged to D.Prema and another, was assessed to Property Tax by the Corporation and the half yearly tax was fixed at Rs.1,437.85ps. Subsequently, from the II/96-97, the Property Tax was increased to Rs.11,959.95ps which has been remitted by the petitioner under protest and they challenged the same by filing an appeal in M.T.A.No.43 of 2006. When the dispute was pending consideration, a notice was issued by the respondent-Corporation dated 31.12.1999 proposing to revise the half yearly tax to Rs.33,941/-. It is relevant to mention that even at that point of time, when the Property Tax has been revised at Rs.11,959.95ps the same was being contested by the petitioner.



4. The appeal filed by the petitioner in M.T.A.No.43 of 2006 was referred to the Lok Adalat and a settlement was arrived at, which was recorded by the Members of the Lok Adalat including the official of the respondent Corporation. The Award passed by the Lok Adalat is quoted herein below :

> "This case was taken up today for settlement before Lok Adalat for Property Tax pertaining to Mrs.D.Prema & P.S.Rathnabai No.486, Pantheon Road, Egmore, Chennai-8, Dy-105, to the period of 1st half of 1993-94 to up-to-date. The Corpororation of

Chennai was represented by A.R.O.(Head Quarters). The parties view were heard. The Property Tax for the period I/1993-94 was fixed at Rs.22,667/- by T.A.T. has been settled at Rs.17,500/- per half year for the concerned period. The premises in question under occupation of tenants/Non Residential. Rental value and other circumstances have been taken into consideration in accordance with that the Half Year Tax is fixed. All the arrears up-to-date should be paid as agreed to by the party within one month from this date.

The award is passed accordingly."

5. On receiving a copy of the Award, the petitioner addressed the 2nd respondent requesting them to calculate and inform as to what would be the Property Tax they had to pay. Subsequently, it appears that a communication was sent and the petitioner cleared the arrears for the period I/1993-94 to I/1998-99 being a sum of Rs.80,385.40 and for the subsequent period from II/1998-99 to II/2006-07 being a sum of Rs.2,72,102/- collected at the rate of Rs.16,006/-, after deducting pre-enhanced tax paid by the petitioner. Thus, a receipt was issued to the petitioner for a sum of Rs.3,52,487.40ps.

6. Subsequently, the subject property was settled in favour of the petitioner Trust and they applied for change of assessment in their name and accordingly, an order was passed on 13.05.2008 duly entered in the Property Tax demand card. The half yearly tax was also amended as Rs.17,500/-. Accordingly, the petitioner has remitted the Property Tax up to II/2009-10 and also the Water and Sewerage Tax proportionately based on the Property Tax assessment.

7. While so, the petitioner received a notice from the 2nd respondent dated 01.04.2010 stating that the property tax has been revised to Rs.45,006/- per half year w.e.f. II/1998-99 and the petitioner has to pay the arrears of Rs.5,68,083/-. The petitioner sent a representation on 02.04.2010 and 30.04.2010 referring to the Award passed by the Lok Adalat stating that there is no arrears. Pursuant there to, a reply was received by the petitioner from the 2nd respondent dated 31.05.2010, wherein, the 2nd respondent sought to interpret the Award to the effect that the amount was settled at Rs.17,500/- only for the period from I/1993-94 to I/1998-99 and during the General Revision of Survey, the tax has been increased to Rs.45,066/- from II/1998-99. The petitioner submitted an appeal to the 1st respondent on 05.07.2010 and also to the Senior Accounts Officer of CMWSSB on 04.09.2008 and since the representations were not considered and distraint notice was issued by the 3rd respondent, the petitioner approached the Lok Adalat for clarification, which application was not entertained and therefore, the petitioner is before this Court.

8. In the preceding paragraph, I have referred to the Award passed by the Lok Adalat. The Lok Adalat has settled the Property Tax for the period from I/1993-94 to up-to-date which would be up to the date of Award passed by the Lok Adalat, i.e., 12.04.2007.

9. Learned Standing Counsel for the respondent/Corporation would vehemently contend that what was the subject matter of dispute referred to the Lok Adalat, was only with regard to the period of three years i.e., from I/1993-94 to I/1998-99 and on the date when the Lok Adalat decided the matter, there was no demand and therefore, the Award should be restricted to the said three years period.

10. Though at the first blush, the argument appear to be impressive, but on closer consideration, considering the facts and circumstances of the case, it is seen it is not tenable. I support such conclusion with the following reasons :

Admittedly, the matter which was referred to the Lok Adalat was a dispute which was much prior to the issuance of the notice dated 31.12.1999. In that, total amount of half year tax proposed to be demanded from the petitioner was Rs.45,066/-, when the petitioner was contesting the earlier increase of Rs.11,959.95ps. Therefore, the Lok Adalat considered the entire matter and to bring out an amicable settlement, passed an Award and used the expression that it would cover the period from I/1993-94 to up-to-date. Therefore, any other interpretation given to the Award would mean that the finality of the settlement arrived at in the Lok Adalat is being disturbed. What is to be understood is while resorting to Alternate Dispute Resolution mechanism, the Court or the Lok Adalat or the Mediator, does not strictly confine themselves or himself to a particular lis, which has been referred to, would attempt a settlement of the dispute between the parties so as to give a quietus to all and connected matters. There have been cases settled in the Lok Adalat and Mediation, where, when a civil case is referred for settlement, the criminal cases and the other related matters are also settled including partition of immovable properties. The same interpretation should be given to the Award of the subject Lok Adalat. There is one more distinction, that the Award of the Lok Adalat is quite distinct from samadhan and settlement schemes offered by direct and indirect statutes which clearly stipulates the period, subject to fulfillment of conditions.

11. Therefore, in my considered view, the interpretation to be given to the Award is that it will cover the period up to April 2007 and the Property Tax has been agreed to be fixed at Rs.17,500/- and any other interpretation given by the respondent-Corporation has to be outrightly rejected. It

appears that the Tax Collector has correctly understood the impact of the Award and collected taxes at the rate of Rs.17,500/- up to the period II/2009-10. The present attempt of the respondent-Corporation for reopening the assessment cannot be permitted.

12. Learned Standing Counsel appearing for the respondent Corporation submitted that even assuming that the Award can be given effect up to the period I/2007-08, for the subsequent period, the petitioner is required to pay a higher amount of Property Tax.

13. As noticed above, on 13.05.2008, assessment stood transferred in the name of the petitioner. Admittedly, if there was any arrears of tax, the respondent Corporation would not effect any name transfer. Subsequently, the petitioner applied for reduction of Property Tax stating that they are a charitable organization affiliated to Radhasoami Satsang Sabha, Agra. This was accepted by the Corporation of Chennai and the Property Tax was reduced to Rs.7,700/-. Obviously if there was any arrears, the respondent Corporation would not have entertained such a request. Therefore, this Court has to determine as what would be the Property Tax payable by the petitioner's Association for the period from I/2007-08 to I/2008-09.

14. For the period from II/2008-09 onwards, the respondents themselves have reduced the Property Tax to Rs.7,700/- per half year. The only issue which is required to be decided is, the rate of tax payable by the petitioner for the period I/2007-08 to I/2008-09. Once again, there has been a confusion caused by the officials of the respondent Corporation as to what is the exact Property Tax payable. There are three provisional notices issued by the Corporation, one dated 20.06.2016 for Rs.25,446/-, a working sheet for Rs.27,046/-, apart from another letter which says the Property Tax was revised to Rs.45,066/-, however, this revision of Rs.45,066/- is not supported by any provisional assessment or final assessment. With regard to the other two assessments, one is provisional notice and the other is working sheet. Therefore, this Court is inclined to adopt provisional notice which proposes to fix the Property Tax at Rs.25,446/- per half year and this will be paid by the petitioner for those three half years, namely, I/2007-08, II/2007-08 and I/2008-09.

15. For all the above reasons, the Writ Petition is allowed and the impugned order passed by the 2nd respondent is set aside with a direction to the petitioner to remit the Property Tax at the rate of Rs.25,446/- for the period I/2007-08, II/2007-08 and I/2008-09. The amount shall be remitted after giving credit to the amount of Rs.17,500/- paid by the petitioner per half year. In the light of the orders passed setting aside the proceedings of the 2nd respondent, the Demand Notice issued by the 2nd respondent has to be necessarily set aside. Accordingly, the same is set aside and

the 3rd respondent is directed to revise the demands of Water and Sewerage Tax, based on the fixation of the Property Tax as mentioned in this order. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-3.

2.The Revenue Officer,
Corporation of Chennai,
Zone-VII, Rippon Building,
Chennai-3.

3.The Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road, Chintadripet, Chennai-2.

4.The Section Officer,
Writ Section, High Court, Madras.

+1cc to Mr.K.Soundararajan, Advocate SR.No.51636
+2cc to Mr.K.S.V.Prasad, Advocate SR.No.57560

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KK(CO)
GN(31/07/2017)