IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2017

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22601 of 2004

1. M.Senthilkumar
2. S.Varadan
3. R.Pandiyan
4. K.Varadarajan
5. R.Govindaraj
6. S.Thirumalai Prabhakaran
7. S.Murugesan ... Petitioners

Vs.

The Commissioner,
Chengalpattu Municipality,
Chengalpattu ... Respondent

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent relating to his proceedings in Na.Ka.No.5428/2002/A1 dated 28.06.2004 and quash the same and consequential mandamus forbearing the respondent from recovering any time barred arrears of house-tax from the salary of the petitioners.

For Petitioners : Mr.D.Peter Francis
For Respondent : Mrs.K.Bhuvaneswari,
Government Advocate.

O R D E R

Petitioner Nos.1 to 6 are Bill Collectors. Petitioner No.7 is working as Revenue Inspector. Petitioners have filed this writ petition challenging the recovery proceedings initiated by the respondent on 28.06.2004, wherein for the assessment years 1997 - 1998, the petitioners have not taken steps to collect the property tax for which the respondent Panchayat was not able to collect the Property Tax as time barred.

2. The brief facts of the case is as follows:

All the petitioners were working under respondent Municipality as Bill Collector's and Revenue Inspectors since 1985. The petitioners were taken all possible steps to collect the arrears of tax since 1970 and during the year 1997 - 1998, the time barred arrears of House Tax is not collected, not due to the fault of the petitioners and it is lack of the administration not prosecuting the matter at the relevant point of time. The petitioners did their Job for recovering the tax and records would show that the petitioners have taken active steps by initiating the S.T.C. proceedings before the competent Court and took prompt steps to recover the arrears of House Tax to the extent of Six Lakhs and recovery order passed by the respondent Panchayat is not sustainable, in view of the Judgment of this Court reported in W.P. No.91 of 1982, V.Nagarajan Vs. Commissioner, Salem Municipality, Salem on 21st January, 1988, the relevant portions of which are extracted hereunder:

> "Having regard to these provisions, I find it rather impossible to appreciate the stand of the Municipality as to how a Bill Collector could cause pecuniary loss to the Municipality by his failure to collect the taxes. Firstly, it does not lie within his powers to allow the recovery of taxes to become time barred. The very elaborate procedure relating to collection of taxes mentioned in paragraph 65 of Municipal Volume I would clearly indicate that it is the duty of the Executive Officer to have periodic verification of the arrears. If he had failed to do the duty and thereby the arrears of tax had become time barred for recovery, that liability cannot be passed on to the Bill Collector."

3. The Judgment of this Court cited supra squarely covers the present case on hand. Accordingly, I am inclined to grant the relief to the petitioners and the impugned order passed by the respondent Municipality Town Panchayat on 28.06.2004 is set aside. The writ petition is allowed. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Commissioner,
Chengalpattu Municipality,
Chengalpattu.

W.P.No.22601 of 2004

SS(CO)
GN(14/09/2017)