

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.41086 and 41087 of 2016
& W.M.P.Nos.35077 and 35078 of 2016

Jayapradha

... Petitioner in both WPs.

Versus

1. The Assistant Revenue Officer,
Zone No.V,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.
 2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.
 3. Raja Babu,
Represented by its partner,
M/s.Jayaprada Theatre,
No.38 & 37, General Peters Road,
Chennai - 600 002. ... Respondents in both WPs.
- (R3 is Impleaded as per order dated 16.03.17 in WMP.6939 & 6940/17)

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of

(i)a writ of Declaration to declare that the demand of Property Tax made in respect of property I.D.No.05-063-04132-000 situate at Ward No.63, Old door No.37/1D, New No.69 Thiru-Vi-Ka Salai, (General Patters Road), Anna Salai, Chennai 600 002 is illegal and ultra vires the provisions contained in the Chennai City Municipal Corporation Act of 1919 and consequently directing the respondents herein not to in any manner levy, impose, collect or demand property tax for the building situate at door No.22, Old door No.38, Thiru-Vi-Ka Salai (General Patters Road), Anna Salai, Chennai 600 002 without passing Assessment Orders and by following the due process of law as envisaged in the Chennai City Municipal Corporation Act of 1919 (W.P.No.40186 of 2016).

(ii)a writ of Declaration to declare that the demand of Property Tax made in respect of property I.D.No.05-063-04130-000 situate at Ward No.63, Old door No.38, New No.77, Thiru-Vi-Ka Salai, (General Patters Road), Anna Salai, Chennai 600 002 is illegal and ultra vires the provisions contained in the Chennai City Municipal Corporation Act of 1919 and consequently direct the respondents herein not to in any manner levy, impose, collect or demand property tax for the building situate at door No.22, Old door No.38, Thiru-Vi-Ka Salai (General Patters Road), Anna Salai, Chennai 600 002 without passing Assessment Orders and by following the due process of law as envisaged in the Chennai City Municipal Corporation Act of 1919(W.P.No.41087 of 2016).

For Petitioner : Mr.T.T.Ravichandran

For Respondent : Mr.T.C.Gopalakrishnan

COMMON ORDER

Heard Mr.T.T.Ravichandran, learned counsel appearing for the petitioner and Mr.T.C.Gopalakrishnan, learned counsel appearing on behalf of the respondent/Corporation and with their consent, the writ petitions are taken up for final disposal.

2.The petitioner has filed these writ petitions praying for declaration to declare that the demand of property tax in respect of the buildings and for mandamus not to in any manner levy, impose, collect of demand property tax for the building situated without following the due process of law.

3.Earlier the petitioner approached this Court for some what an identical relief in W.P.Nos.2921 and 2922 of 2010, which was disposed of by this Court on 04.08.2016. The operative portion of the said order, reads as follows:

''4.It is an admitted fact that during the pendency of the writ petitions several other litigations have been initiated by the petitioner as well as her brother and there is also an order passed by the Corporation of Chennai, stating that the building is not in a safe condition and is required to be demolished. This order was also subject matter of challenge by the tenants and action has been directed to be taken for re-inspecting the building and proceed in accordance with law.

5.In the light of the above, the writ petitions

are closed, making it clear that if there are arrears of tax to be by the petitioner, it is open to the respondents to initiate fresh action in accordance with law and the petitioner cannot take the pleas of limitation, when such proceedings are initiated. No Costs. Consequently, connected miscellaneous petitions are closed''.

4. Thus, in terms of the above order, the respondent corporation were at liberty to initiate fresh action in accordance with law. Pursuant there to, notice was issued on 28.10.2016 calling for particulars relating to the buildings in question and the petitioner was directed to appear on 04.11.2016. The notice appears to have been affixed in the residential premises of the petitioner. The petitioner now complains that she did not have adequate opportunity to put forth her appeal and the date given as 04.11.2016 is a very short date and not even 15 days was granted to the petitioner. The petitioner and her brother, who is the third respondent herein have initiated several litigations pertaining to the property tax, water tax in respect of the same building. Thus, they have to be treated as chronic litigants. In any event, the respondent corporation could have granted some more time to the petitioner to respond to the notice dated 28.10.2016 by giving at least 15 days. Hence, for that reason, this Court is inclined to grant reasonable time to the petitioner. The prayer sought for to issue the writ of declaration or for a direction prayed for by the petitioner is misconceived and no other relief is granted and if the same is granted, it will virtually run counter to the provisions of the Chennai City Municipal Corporation Act.

5. Thus, while dismissing the writ petitions, the petitioner is granted 15 days time from the date of receipt of a copy of this order to furnish full information as called for in the notice dated 28.10.2016 and appear before the first respondent in person or through her authorised representative and make submissions, after which the first respondent is directed to proceed in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dn/rsi

To

1. The Assistant Revenue Officer,
Zone No.V,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

+1 cc to M/s.T.C.Gopalakrishnan Advocate sr 46383

W.P.Nos.41086 and 41087 of 2016

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