IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.38960 of 2002
and
W.M.P.No.58113 & 58114 of 2002

N. Emarose ... Petitioner

Vs

1. The Commissioner,
   Urban Land Tax, Chennai - 5.

2. The Assistant Commissioner,
   Urban Land Tax,
   Ambattur, Chennai - 29.

3. The Special Tahsildar(ULT)
   Office of the Special Tahsildar,
   For Urban Land Tax,
   Purasawakkam, Chennai - 11

4. The Revenue Inspector,
   Purasawakkam, Perambur Taluk,
   Chennai - 11. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the entire records on the file of the respondents 2 and 3 in respect of the orders passed by them based on the undated demand notice in form No.6 issued in the first week of September 2002 Under Section 14 of the Urban Land Tax Act 1966, as amended in 1971, calling upon him to pay the Urban Land Tax amounting to Rs.41,150/- and other connected records pertaining to Survey No.59/1, 58/9 and 58/1 at Kolathur Village, Peravallur, Perambur, Chennai - 11 and quash the undated demand notice of the third respondent.

For Petitioner : Mr.T.V.Krishnamachari

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.T.V.Krishnamachari, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents 1 to 4.

2. The petitioner in this writ petition has challenged the demand notice issued by the third respondent directing the petitioner to pay Urban Land Tax, for the faslis 1401 to 1412 being a sum of Rs.41,150/- in respect of the lands in Survey No.59/1 measuring an extent of 26 grounds and 1,625 square feet.

3. The petitioner's case is that proceedings were initiated by the authorities under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and an order was passed on 30.09.1986, stating that the petitioner's family is eligible to hold the land in Survey No.59/1 and it comes within the eligible limit U/s.5(7) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and dropped further action. Therefore, it is submitted that no demand can be made towards the Urban Land Tax.That apart, it is submitted that Revenue Recovery proceedings can be initiated only after the demand is made, which can be made only after an assessment. In the para wise comments given by the third respondent to the learned Special Government Pleader (Taxes) dated 26.07.2006, there is no whisper as to whether any assessment was made under the Tamil Nadu Urban Land Tax Act. Further, there is also no denial to the fact that the petitioner has objected to the impugned demand by sending a lawyer's notice.

4. The only contention raised by the third respondent is that the proceedings under the Urban Land Ceiling Act has no impact on the assessment under the Urban Land Tax Act. However, this issue cannot be unilaterally determined by the third respondent and if he proposes to assess the petitioner to Urban land Tax, then, the authorities should have followed the procedure under the said Act by issuing notice and then complete the assessment. In the absence of any record produced before this Court to show that assessment proceedings were initiated against the petitioner, the distraint proceedings are necessarily to be held as bad in law.

5. For the above reason, this writ petition is allowed, the impugned order is quashed and it is open to the Urban Land tax authorities to proceed in accordance with the provisions of the Act.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kak/sli

To

1. The Commissioner,
   Urban Land Tax,
   Chennai - 5.

2. The Assistant Commissioner,
   Urban Land Tax,
   Ambattur,
   Chennai - 29.

3. The Special Tahsildar(ULT)
   Office of the Special Tahsildar,
   For Urban Land Tax,
   Purasawakkam,
   Chennai - 11

4. The Revenue Inspector,
   Purasawakkam,
   Perambur Taluk,
   Chennai - 11.

+1cc to Mr.T.V.Krishnamachari, Advocate, S.R.No.53110
+1cc to the Special Government Pleader(T), S.R.No.53162

W.P.No.38960 of 2002

EV(CO)
CA(23/08/2017)