BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.732 of 2017 and
W.M.P.(MD) No.589 of 2017

P.Muralidhar ... Petitioner

-vs-

1. The Commissioner,
Madurai Municipal Corporation,
Madurai.

2. The Bill Collector,
Zone-IV,
West Marret Street,
Periyar, Madurai-1. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records pursuant to the final Demand Notice dated NIL (served on 06.01.2017) issued by the 2nd respondent and quash the same as illegal.

For Petitioner ... Mr.D.Srinivasaragavan

For R1 ... Mr.T.S.Mohamed Mohideen

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ORDER

This writ petition has been filed, seeking to quash the demand notice issued by the 2nd respondent, by which, the petitioner was directed to pay the house tax within three days.

2. Heard the learned counsel on either side.

3. According to the learned counsel for the petitioner, the inspection was conducted by the respondents in absence of the petitioner and there are no commercial activities going on in the house. Hence, the demand made by the 2nd respondent is per se illegal.

4. Per contra, learned counsel for the first respondent drew the attention of this Court the Paragraph No.4 of the counter affidavit, wherein it is stated as follows:

"4. It is submitted that for the portion which is being used as residential through Assessment No.58445 half yearly tax was fixed as Rs.840/-. The petitioner has paid 2nd half yearly tax for the year 2016-2017. As per Section 120 of Madurai Corporation Act, 1971, the Corporation is empowered to inspect the property and fix the Property Tax. Following the same on inspection upon the disputed property it was found 1083 square feet in the building is being used commercially (E.B.Connection No.1699). Therefore for the Commercial Area through New Tax Assessment No.386235 with effect from 01.04.2014 for half yearly Rs.3,985/- was fixed. The assessment made by the authority is in accordance with law."

5. On hearing both sides and perusal of the counter affidavit, it is seen that there is a disputed question of fact with regard to the conduct of inspection. Therefore, in order to give quietus to the issue, this Court is of the view that the impugned demand notice is liable to be quashed with liberty to conduct re-inspection.

6. Accordingly, this petition is allowed and the impugned demand notice issued by the 2nd respondent is set aside. The respondents are directed to re-inspect the property in question in the presence of the petitioner after issuing prior notice of inspection to him and thereafter, decide with regard to the quantum of property tax payable by the petitioner, by issuing a fresh demand notice. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar.

To:

1. The Commissioner, Madurai Municipal Corporation,
   Madurai.

2. The Bill Collector, Zone-IV, West Marret Street,
   Periyar, Madurai-1.

+1CC to Mr.Srinivasa Raghavan, Advocate, SR.No. 69183
+1CC to Mr.T.S.Mohamed Mohideen, Advocate, SR.No.69452

W.P(MD)No.732 of 2017
01.08.2017

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