BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P(MD).No.10415 of 2011 and
M.P(MD).Nos.1 of 2011 and 1 of 2012

1. Dr. G. Surendran (died)
2.Dr. S. Gopal Sundaram
3.Dr.P.. Arun Chand ... Petitioners
(Petitioner 2&3 are substituted of the deceased Sole Petitioner vide Court Order dt.15/12/16 in MP(MD)1/2014/by MSRJ)

Vs.

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned notice in Na.Ka.No.5071/2009/A8 dated 18.07.2011 and quash the same and consequently directing the respondent to follow the guidelines as per G.O.Ms.No.150 dated 12.11.2007 and G.O.Ms.No.110 dated 23.06.2008 and assess the property tax in accordance with the said Government order within a time frame as fixed by this Court.

For Petitioners : Mr.K. Balasubramanian

For Respondent : Mrs. S. Srimathy

ORDER

This Writ Petition is filed to call for the records of the respondent relating to the impugned notice in Na.Ka.No.5071/2009/A8 dated 18.07.2011 and quash the same and consequently directing the respondent to follow the guidelines as per G.O.Ms.No.150 dated 12.11.2007 and G.O.Ms.No.110 dated 23.06.2008 and assess the property tax in accordance with the said Government order within a time frame as fixed by this Court.

2. Aggrieved against the revision of property tax by 300% for the assessment year 2008-2009, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the petitioner submits that in the general revision for the assessment year 1993 -1994, the tax was revised to Rs.56,175/-. When the petitioner had challenged the notice in O.S.No.517 of 1994, by an order dated 06.08.2004, the Civil Court had directed the Municipality to issue notice and afford an opportunity to the petitioner before a revision is effected. Accordingly, a notice dated 26.05.2009 was issued to the petitioner for the proposed revised assessment for the year 1993 -1994. The petitioner had given his objections to the revised assessment. After nine years, the respondent had again revised the property tax for the year 2008-2009 and have now increased the property tax by 300%. He further submits that so far as general revision for the year 2008 - 2009 is concerned, there was no prior notice justifying the exorbitant increase. In this context the learned counsel for the petitioner relied upon G.O.Ms.No.110 dated 23.06.2008, which provides guidelines for revision of various properties including commercial properties. The learned counsel for the petitioner submits that opposing the exorbitant fees he has given representation to the respondent on 11.08.2011 which is yet to be considered. Nevertheless, he would submit that the revision of the property tax without notice to him is bad in law.

4. The impugned notice as well as the counter affidavit filed by the respondent also does not disclose as to whether a prior notice was issued to the petitioner before the general revision for the year 2008 - 2009. Consequently, it can only be concluded that no notice was issued prior to the proposed revision.

5. In such circumstances, I deem that it would be appropriate to direct the respondent to give an prior notice to the petitioner justifying enhancement of the property tax and the relevant factors taken into account for the revision.

6. In the light of the above observation and in the light of the G.O.Ms.No.110 dated 23.06.2008, the impugned notice in Na.Ka.No.5071/2009/A8 dated 18.07.2011 is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to give prior notice to the petitioner with details under the various heads as to the proposed enhancement of the property tax. On receipt of the notice, the petitioner shall give his objections within a period of four weeks from the date of receipt of a copy of the notice. The respondent in turn, on receipt of the objections, pass a reasoned order within a period of eight weeks from the date receipt of petitioner's objection.

7. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(CS I)

/TRUE COPY/

Sub Assistant Registrar

To

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District.

+1cc to M/s.K.Balasubramanian, Advocate, in SR No.2712
+1cc to M/s.S.Srimathy, Advocate, in SR No.3172

trp
AAM RR BS 30.01.2017 3P 4C

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