BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.08.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.19905 & 20910 of 2013
and
M.P(MD)Nos.1 & 2 of 2013

W.P(MD)No.19905 of 2013
K.Palanisamy ... Petitioner

Vs.

1.The Town Planning Officer,
Karur Municipality,
Karur,
Karur District.

2.The Commissioner,
Karur Municipality,
Azad Road,
Karur, Karur District.

3.The Chairman,
Appellate Authority for tax,
Karur Municipality,
Azad Road, Karur. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for entire records relating to the impugned proceedings of the second respondent in தொ.மு.மேல்.மு.மனு.எண்.01/2013/அ3, dated 24.05.2013 communicating the proceedings of third respondent and consequential impugned proceedings of second respondent in ந.க.எண்.மேல்.மு.மனு.எண்.01/2013/அ3, dated 30.10.2013 and quash the same as illegal and consequently to direct the respondents to afford the petitioner an opportunity of hearing and hold an enquiry and dispose of the appeal filed by the petitioner in accordance with law.

(Prayer amended vide Court order, dated 26.09.2016 in M.P(MD)No.2 of 2013 in W.P(MD)No.19905 of 2013)

<u>W.P(MD)No.20910 of 2013</u>
K.Palanisamy ... Petitioner

Vs.

1.The Town Planning Officer,
Karur Municipality,
Karur,
Karur District.

2.The Commissioner,
Karur Municipality,
Azad Road,
Karur, Karur District.

3.The Chairman,
Appellate Authority for tax,
Karur Municipality,
Azad Road, Karur. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for entire records relating to the impugned proceedings of the second respondent in his proceedings, dated 11.12.2013 and quash the same as illegal and consequently to direct the respondents to afford the petitioner an opportunity of hearing and hold an enquiry and dispose of the appeal filed by the petitioner in accordance with law.

(In both W.P.s)

For Petitioner : Mr.K.Chellapandian
Senior Counsel
for M/s.AL.Kannan

For Respondents : Mr.K.Balasubramani
Standing Counsel

COMMON ORDER

The present writ petitions have been filed challenging an order passed by the second respondent herein, under which, he was informed that the appeal filed by the writ petitioner challenging the enhancement of property tax was dismissed on the ground that the petitioner has not appeared before the third respondent herein.

2. Originally, the petitioner was paying a tax at the rate of Rs.2,022/- for half yearly from the year 1999 onwards. Thereafter, the petitioner has sought permission for renovation of the said building and the constructions were completed, only in the year 2003. However, the second respondent has issued a demand notice, revising the tax at the rate of Rs.1,09,850/- for half year with effect from 01.04.2000 onwards. Hence, the petitioner filed his objections. Since the objections were not considered, the petitioner has preferred an appeal before the third respondent herein under Section 89(1) of the Tamil Nadu District Municipalities Act. The third respondent herein has sent a notice on 23.04.2013, directing the petitioner to appear on 25.04.2013 at 05.30 P.M. for an enquiry. The said notice was received by the writ petitioner only on 26.04.2013.

3. The petitioner has sent a representation on 27.04.2013, indicating the fact that he received the notice only after the date of hearing. Hence, he requested for another date to be fixed for hearing the appeal. The third respondent Appellate Committee has issued a notice on 03.05.2013, indicating the date of hearing as 20.05.2013. The petitioner

has again sent a communication on 15.05.2013, expressing his inability to attend on 20.05.2013, on the ground that there is a function in his family. The petitioner had requested the Appellate Committee to have the enquiry on any one of the dates between 22.05.2013 to 24.05.2013. However, the said request of the petitioner was rejected and the third respondent has proceeded to pass an order, confirming the enhancement of the property tax. In the impugned order, the third respondent has stated that the petitioner is dragging on the matter and he has no intention to co-operate for the enquiry. Pursuant to the said impugned order passed by the third respondent herein, an order of attachment was passed by the second respondent on 11.12.2013. The said order is under challenge in W.P(MD)No.20910 of 2013.

4. According to the learned Senior Counsel appearing for the writ petitioner, on the first occasion, he received the notice only after the date of hearing. On the second occasion, when the petitioner had pointed out that there is a marriage in his family and requested for adjournment of the enquiry for two days. The said request has been rejected and the Appellate Committee has proceeded to pass the present impugned order.

According to the learned Senior Counsel, the petitioner was paying a property tax at the rate of Rs.2,022/- from the year 1999 onwards, which was suddenly enhanced to Rs.1,09,815/-, without assigning any reasons or providing any opportunity to the writ petitioner. The building being a residential property, the respondents 2 and 3 ought to have considered the objections filed by the writ petitioner before passing the impugned order.

5. Per contra, the learned Standing Counsel appearing for the second and third respondents had contended that despite notices, the petitioner has not chosen to appear and he was avoiding the enquiry.

6. I have carefully considered the submissions made on either side.

7. A perusal of the records indicate that the property tax has been increased manifold for the residential property of the writ petitioner. The first notice has been received by the petitioner, after the date of enquiry and for the second notice, the petitioner has given some reasonable cause for not attending the enquiry on 20.05.2013 and he has sought for an

adjournment of just two days. The said request ought to have been considered by the third respondent herein and granted sufficient time to the writ petitioner to put forward his case. However, the third respondent has proceeded to pass the impugned order, making allegations as against the writ petitioner that he is not co-operating for the enquiry. In view of the above said facts, I find that the impugned order has been passed in violation of principles of natural justice and the same is set aside.

8. In view of the above said discussion, this Court passes the following order:

> *"(i) The impugned order in W.P(MD)No.19905 of 2013 and the consequential order in W.P(MD)No.20910 of 2013 are hereby set aside.*
>
> *(ii) The matter is remitted back to the file of the third respondent herein and he shall pass orders, after giving due opportunity to the writ petitioner on merits and in accordance with law*
>
> *(iii) Till orders are passed by the third respondent herein, no coercive steps shall be taken to recover the enhanced property tax from the writ petitioner."*

9. With the above said observations, both the writ petitions stand allowed. In case, any amount has been paid, pursuant to the orders of this Court, the same shall be adjusted in the property tax to be assessed by the third respondent herein.

16.08.2022

Index : Yes / No
Internet : Yes / No
btr

To

1.The Town Planning Officer,
Karur Municipality,
Karur,
Karur District.

2.The Commissioner,
Karur Municipality,
Azad Road,
Karur, Karur District.

3.The Chairman,
Appellate Authority for tax,
Karur Municipality,
Azad Road, Karur.

R.VIJAYAKUMAR, J.

btr

Order made in
W.P.(MD).Nos.19905 & 20910 of 2013

16.08.2022