

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.25162 of 2004

ORDER :

In this Writ Petition, the petitioner has assailed the action of the respondent-Municipality in enhancing property tax in respect of the petitioner's building / House bearing No.5-4-126 by more than 300% on the tax earlier levied on it vide notice dt.29.08.2003.

2. It is the contention of petitioner that the said demand notice has been issued without re-assessment and without following process of law and in particular without any prior intimation or any special notice as provided under the Act.

3. In the counter-affidavit filed by the respondent, it is alleged that special notice and demand notices were served on the Writ Petitioner and that a special notice was also issued in regard to the proposal for enhancement of the property tax on 27.03.2002 and objections of the petitioner were called for, but the petitioner did not file any Revision against the same.

4. Along with the counter-affidavit, evidence of service of the special notice allegedly served on the petitioner on 27.03.2002 is not filed.

5. On 08.08.2017, this Court directed the respondent to produce the same.

6. However, the same has not been produced by the counsel for respondent.

7. Therefore, it has to be presumed that the allegation made by the petitioner of non-issuance / non-service of the special notice on the petitioner is correct.

8. Without serving such special notice and giving an opportunity to the petitioner to contest the basis on which the revision of tax is to be done, the respondent cannot levy the said assessment.

9. Accordingly, the Writ Petition is allowed, and the impugned demand notice dt.29.08.2003 issued by the respondent directing the petitioner to pay a sum of Rs.97,034/- for the period 01.04.2003 to 31.03.2003 is set aside. No order as to costs.

10. However, this will not preclude the respondent from issuing such special notice, serve the same on the petitioner and then revising the property tax in accordance with law.

11. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-08-2017

Ndr/*