HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.505 OF 2017

JUDGMENT: (*Per* Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri J. Prabhakar, learned counsel for the appellant – writ petitioner, learned Government Pleader for Panchayat Raj, and Sri G. Narender Reddy, learned standing counsel for Gram Panchayat and, with their consent, the Appeal is disposed of at the stage of admission.

This Appeal, under clause 15 of Letters Patent, is preferred against the order passed by the learned Single Judge in Writ Petition No.8484 of 2017 dated 10.03.2017. The appellant herein is the petitioner in the writ petition wherein they sought a writ of *mandamus* to declare the notice dated 17.12.2016, demanding house-tax, in respect of the premises for the years 2013-14 to 2016-17, as illegal and arbitrary.

In the order under appeal, the learned Single Judge, after referring to Rule 9(3) of the Rules, held that, as the appellant-petitioner had an alternate remedy of a revision, he was not inclined to examine the matter on merits; and it was open to the petitioner to avail the remedy as provided under Rule 9(3) of the Rules relating to Certain Taxes and the Lodging of Moneys Received by the Gram Panchayat and Payment of Moneys from the Gram Pachayat Fund, 1995 (for short, 'the Rules'). The Writ Petition was disposed of leaving it open to the petitioner to file his revision against the impugned notice dated 17.12.2016 within three (3) weeks from the date of receipt of a copy of the order. The learned Single Judge observed that, if any such revision was filed, the same should be considered, and appropriate orders shall be passed in accordance with law, after giving notice and opportunity of hearing to the petitioner. Till the decision was taken, respondents were directed not to take any coercive steps.

Sri J. Prabhakar, learned counsel for the appellant-petitioner, would submit that, under Rule 9(3), the Executive Authority is obligated to intimate, by a special notice to the owner or occupier of such house, that a petition for revising the assessment would be considered if it reaches the gram panchayat office within sixty days from the date of service of such notice in the case of a company, and within thirty days from the date of service of notice in other cases. While Rule 9(3) empowers the Executive Authority to increase the assessment, he is also required to intimate, by a special notice to the owner or occupier, that he could seek a revision of the assessment. While the impugned order upwardly revises the tax imposed earlier, the petitioner was not put on notice that they could file a petition for revising the assessment.

Sri J. Prabhakar, learned counsel for the appellant, would submit that, in the absence of any intimation in the impugned proceedings informing the petitioner that they could file a petition for revising the assessment, the petitioner could not file such a petition earlier; and, if time is granted, the petitioner would now file a petition requesting the Executive Authority to revise the enhanced assessment made by him in his proceedings dated 17.12.2016.

It is evident from the impugned order that the petitioner was not informed that he could seek revision of the enhanced assessment. We consider it appropriate, therefore, to permit the petitioner to file a petition seeking revision of the assessment. In case the petitioner files a petition for revision of assessment, within thirty days from today, the respondents shall consider the same and pass orders thereupon, in accordance with law, within thirty days thereafter.

As directed by the learned Single Judge, till orders are passed on the petitioner's application for revision, no coercive steps shall be taken to recover the amounts due under the enhanced assessment. It is made clear that, in case the petitioner fails to submit a petition seeking revision within the aforesaid period of thirty days, it would then be open to the respondents to proceed and take action in accordance with law.

The Writ Appeal stands disposed of accordingly. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No order as to costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 18-04-2017.
DSH/SIVA

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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WRIT APPEAL No.505 OF 2017
(Judgment of the Division Bench delivered by
Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Date. 18-04-2017

DSH