IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

Civil Writ Petition No.22660 of 2017
Date of Decision: October 04, 2017

Ameeta Mehra ...Petitioner

versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL

*****

Present: Mr. Vikas Bahl, Sr. Advocate with
Mrs. Ritika Goyal, Advocate,
Mr. Amandeep Singh, Advocate and
Ms. Harbani Shinh, Advocate for the petitioner.

*****

AJAY KUMAR MITTAL, J. (Oral)

The petitioner, by way of present writ petition filed under Articles 226/227 of the Constitution of India, *inter alia,* sought quashing of order dated 04.09.2017 (Annexure P-6) passed by respondent No.3 issued under Section 130 of the Haryana Municipal Corporation Act, 1994 (for short, 'the Act') and property tax order dated 31.03.2017 (Annexure P-5), served upon her on 29.09.2017 at 06:30 pm. Further prayer has also been made to quash the subsequent orders passed in violation of the provisions of Sections 87-B, 87-C and Section 130 of the Act.

2. Learned counsel for the petitioner submitted that the impugned orders dated 31.03.2017 and 04.09.2017 (Annexures P-5

and P-6 respectively) had been passed without affording an opportunity of hearing to the petitioner and have been received by the petitioner six months after the period granted to pay the outstanding tax liability. Learned counsel further submitted that a detailed and comprehensive representation shall be filed by the petitioner before the Commissioner, Municipal Corporation, Gurugram-respondent No.2 and direction be issued to decide the same after affording an opportunity of hearing to her in accordance with law. It was further prayed that since, vide impugned order dated 04.09.2017 (Annexure P-6), the property has been attached and put to auction on 04.10.2017 i.e. today itself, the petitioner may be allowed to deposit a Manager's Cheque bearing No.'025317' dated 03.10.2017, amounting to ₹ 1,05,99,587/-, drawn in favour of the Commissioner, Municipal Corporation, Gurugram, which is produced in Court today but in the meantime, auction of the property be stayed. The photocopy of the Manager's Cheque has been retained on record whereas the original has been returned to the learned counsel for the petitioner.

3. After hearing learned counsel for the petitioner, pursuing the present writ petition and without commenting anything on the merits of the case, we permit the petitioner to file a detailed and comprehensive representation with the Commissioner, Municipal Corporation, Gurugram-respondent No.2 within a week from today, which shall be decided by him in accordance with law by passing a speaking order and after affording an opportunity of hearing to her

within next two weeks. Needless to say that all the issues that may arise for consideration shall be decided *de hors* the observations made in the impugned orders i.e. Annexures P-5 and P-6, while passing fresh order on the representation. The aforesaid Manager's Cheque, which has been produced in Court today, shall be deposited with the concerned respondent on or before 06.10.2017 which shall be accepted by respondent No.2 without prejudice to rights of the Municipal Corporation, Gurugram. The amount so deposited shall be subject to the adjustment to be made in respect of any liability payable by the petitioner which is created on the basis of the fresh order to be passed against the property tax liability of the petitioner. It is further directed that the auction proceedings, which are scheduled to be held today itself, shall be kept in abeyance by the Municipal Corporation, Gurugram till the decision of the representation to be filed by the petitioner. In other words, no coercive steps shall be taken against the petitioner towards the recovery of amount in dispute till the passing of the fresh order.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

October 04, 2017
sonia gugnani

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No