IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 12-06-2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WRIT APPEAL No.1249 OF 2018

1.The Municipal Council,
rep.by its Chairman,
Tiruppur Municipality,
Tiruppur.

2.Tiruppur Municipality,
rep.by its Commissioner,
Tiruppur. ...Appellants/Respondents

-vs-

S.Venkatarajan ...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order, dated 09.02.2005, passed in W.P.No.3944 of 2005, on the file of this Court. Writ Petition under Article 226 of the constitution of India, praying for the issuance of a writ of certiorarified Mandamus to call for the notices of Demand of property Tax bearing Nos.010019 and 010020 issued by the 2nd respondent and quash the same and consequentially direct the respondents to make fresh assessment of the petitioners property situated in S.No.118/4 ward 1 measuring an extent of 8712 sq.ft. Thottipalayam Village Palladam Taluk Tiruppur Town now bearing D.No.13 Murugapalayam Inderi South St Tiruppur-3 on par with the neighbouring properties / lands in accordance with law.

For appellants : Mr.G.Sankaran,
Spl.Govt.Pleader.

JUDGMENT

(Judgment of the Court was delivered by M.Sathyanarayanan,J.)

The respondent/writ petitioner had filed the Writ Petition No.3944 of 2005 praying for a writ of certiorarified mandamus to call for the notices of demand of property tax bearing No.010019 and 010020, issued by the second appellant, quash the same and consequently direct the respondent to make a fresh assessment of his property situated in Survey No.118/4, Ward 1, admeasuring to an extent of 8712 sq.ft. in Thottipalayam Village, Palladam Taluk, Tiruppur Town, now bearing Door No.13, Murungapalayam Inderi South Street, Tiruppur-641 003, on par with the neighbouring properties/lands in accordance with law. Notices were ordered in the said Writ Petition.

2. A learned single Judge of this Court considered the submissions of the parties and disposed of the Writ Petition vide order, dated 09.02.2005. It is relevant to extract paragraph 3/operative portion of the order as under :

> "3. In such circumstances, I am of the view that without passing the regular order of assessment determining the property tax, the impugned notices of demand cannot be acted upon. Therefore, while setting aside the impugned notices, the respondents are directed to pass the regular order of assessment of property tax in respect of the petitioner's premises, after giving due opportunity to the petitioner and thereafter proceed with the demand notice as per law, if the assessment order has not yet been passed. However, if the assessment order has already been passed, a copy of the same shall be furnished to the petitioner to work out his remedy in the manner known to law. The writ petition is ordered accordingly. Consequently, connected W.P.M.P.Nos.4413 and 4414 of 2005 are closed. No costs."

3. Learned counsel for the appellant would submit that in the light of the alternative remedy available, the Writ Petition, per se, was not maintainable and the said fact has been completely overlooked by the learned single Judge.

4. This Court has considered the submissions advanced by the learned counsel for the appellant. The learned single Judge, while setting aside the impugned notices, granted liberty to the appellant to pass regular order of assessment, after giving opportunity to the respondent/writ petitioner, and proceed thereafter in accordance with law, if not the assessment order has already been passed. The learned single Jude also indicated that if the assessment order is already passed, a copy of the same shall be furnished to the writ petitioner to work out his remedy in the manner known to law. In the considered opinion of this Court, the said order, in no way, prejudices or undermines the authority of the appellant herein to assess the property tax and that apart, the impugned order, which is the

subject matter of challenge in this Writ Appeal, came to be passed as early as on 09.02.2005 and, in the light of the passage of time, the grievance expressed by the appellant cannot be countenanced.

5. This Court, on an independent application of mind, is of the considered view that there is no error apparent on the face of the record or infirmity with the reasons assigned by the learned single Judge in disposing of the Writ Petition. Therefore, finding no merit, this Writ Appeal is dismissed, confirming the order, dated 09.02.2005, passed in W.P.No.3944 of 2005. Taking into consideration the facts and circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dixit

W.A.No.1249 OF 2018

MR(CO)
EU(27/07/2018)