IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

C O R A M
THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.Nos.19340 & 19341 of 2004
and M.P.Nos.23276 & 23277 of 2004

P.Udhayashankar ... Petitioner in both WPs.

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Revenue Officer,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

3.The Assistant Revenue Officer,
Zonal Office IV,
Corporation of Chennai,
Ayanavaram,
Chennai - 600 023. ...Respondents in both WPs.

Common Prayer : Petition filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records in pursuant to the warrant notice issued by the third respondent in his notice dated Nil for bill No.212 & 217 Door No.200 & 204, Konnur High Road, Ayanavaram, Chennai-23, Division-55, Zone-IV, respectively quash the same and consequently forbear the respondents in any way from demanding or collecting the enhanced property tax from Rs.331/- to Rs.4,071/- in respect of Door No.200, Konnur High Road, Ayanavaram, Chennai-23 and Rs.979/- to Rs.8,339/-in respect of Door No.204, Konnur High Road, Ayanavaram, Chennai-23 respectively.

For Petitioner ... Mr.M.Sriram
in both writ petitions

For Respondents ... Mr.T.C.Gopalakrishnan, SC
in both writ petitions

O R D E R

These two writ petitions are in respect of property tax assessment pertaining to two different properties originally owned by the petitioner's father. It is stated that the petitioner's father D.Panduranga Mudaliar was the absolute owner. Though several facts are stated in the affidavit filed in support of writ petitions in W.P.Nos.19340 & 19341 of 2004, this Court is not inclined to go into facts having regard to the nature of the disputes and the final order proposed.

2 The learned counsel for the petitioner has confined his submissions in relation to two properties bearing Door Nos.200 and 204 in Konnur High Road, Ayanavaram, Chennai. The writ petition in W.P.No.19340 of 2004 pertains to Door No.200, Konnur High Road, Ayanavaram, Chennai-23, Division-55, Zone-IV and writ petition in W.P.No.19341 of 2004 pertains to Door No.204, Konnur High Road, Ayanavaram, Chennai-23, Division-55, Zone-IV, which is stated to be allotted in favour of the petitioner's brother. The petitioner himself admits that his brother is entitled to the property bearing Door.No.204.

3 After elaborate arguments, the learned counsel for the petitioner came forward with the proposal that he may be permitted to pay 75% of the tax as per the demand as on date after deducting the amount already paid and that upon payment of such amount towards property tax, he may be permitted to file an appeal as against the original assessment. It is the grievance of the petitioner that the assessment of property tax has not been changed in favour of the petitioner or his brother and that therefore, the petitioner could not file an appeal as against the order of assessment.

4 Taking into consideration, the submissions of both sides and the facts narrated in the affidavit in these writ petitions, this Court is inclined to pass the following directions :-

(i) In W.P.No.19340 of 2004, the petitioner is directed to pay a sum of Rs.87,796.75/- to the respondent within a period of six weeks from the date of receipt of copy of this order. Upon payment of said sum, the respondent shall transfer the assessment of property tax in the name of the petitioner, so as to enable the petitioner to file an appeal as against the order of assessment or demand notice.

(ii) In W.P.No.19341 of 2004, the petitioner's brother is permitted to pay a sum of Rs.35,167.50/- towards 75% of the entire amount of tax, assessed at Rs.3,75,470/- in addition to the sum of Rs.2,46,435/- already paid by the petitioner's brother, upon, petitioner's brother making the payment of the said sum of Rs.35,167.50/- within a period of six weeks from the date of receipt of copy of this order, the respondent shall change the assessment in the name of petitioner's brother in respect of Door No.204.

(iii) Upon the change or mutation of assessment in the records of the respondent, the petitioner and his brother is permitted to file an appeal or revision as the case may be before the Appellate or Revisional Authority, challenging the order of assessment of property tax in accordance with law.

(iv) In case, the petitioner fails to pay 75% of the amount as indicated above pursuant to the order of this Court, it is open to the respondent to take all possible steps to recover the amount by adopting any method from the respondent in accordance with law. The remaining amount payable, if any depends upon the outcome of the appeal or revision filed by the appellant.

(v) In case, the appeal is filed by the writ petitioner or his brother before the Appellate Authority, the same shall be considered and disposed of within a period of three months from the date of receipt of copy of this order.

5 Therefore, it is stated that pursuant to the general revision of the property tax through out the Corporation, new tax has been assessed in respect of the buildings with effect from the first half of the year 2018-19. This order shall not affect the revision of taxes, which is applicable with effect from first half of 2018-19.

6 With the above directions, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsi/rpl.

To

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Revenue Officer,
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Chennai - 600 023.

+1cc to Mr.T.C.Gopala krishnan, Advocate, S.R.No.71151

W.P.Nos.19340 & 19341 of 2004
and M.P.Nos.23276 & 23277 of 2004

GJ II(CO)

rrs 02/11/2018