IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.385 of 2018 and
WMP.No.438 of 2018

Kiren Saklecha ... Petitioner

Vs.

The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai-600 044. ...Respondent

PRAYER:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent, leading upto the respondent's notice No.Na.Ka.No.7659/2005A1 dated 22.09.2017, received on 06.10.2017, enclosing the property tax demands towards alleged arrears of property tax from the period from 2004-2005 to 2017-2018 in respect of the petitioner premises No.77A, Kollanchavadi, Zamin Pallavaram, 600 044 and quash the same as illegal and invalid.

For Petitioner : Mr.Prakash Goklaney
For Respondent : Mr.A.P.Srinivas

ORDER

Heard Mr.Prakash Goklaney, learned counsel for petitioner and Mr.A.P.Srinivas, learned standing counsel for the Municipality.

2. The petitioner, aggrieved by the notice dated 22.09.2017, calling upon him to pay the amounts as demanded in the enclosed demands, being an arrears of property tax payable by the petitioner, in respect of twelve assessments of the property owned by him. The only ground on which the impugned order has been challenged is by contenting that the impugned

proceedings has been issued in violation of the direction issued by this Court in WP.No.6769 to 6779 of 2002. In the said writ petition, the petitioner has challenged the distraint notice issued by the respondent/Municipality towards the arrears of property tax from first half year of 1997-98 to second half year of 2001-02, in respect of the petitioner's property bearing Door No.77 A, Radha Nagar Main Road, Chrompet, Chennai-600 044. The petitioner contended that the sum of Rs.4,140/- which has been shown as arrears of property tax in the distraint notice has also been paid but has bot been given credit to by the authorities and any demand over and above the amount already paid is illegal.

3. The learned standing counsel appearing for the respondent/Municipality submitted that the assessment in respect of the property has been revised and nine separate assessments has been passed in respect of the portion, as found in the building and there are dues from the petitioner and hence distraint notice was issued.

4. In reply, the petitioner contended that no assessment order has been served on the petitioner and originally there were only three assessments and cancelling the said three assessments and making the same into nine assessments has not been communicated to the petitioner.

5. After hearing the submission of the learned counsel on either sides, this Court has pointed out that it would only for the purpose of recovering the property tax due from the petitioner, distraint notice has been issued and the petitioner has shown some diligence in making payment of property tax and the subsequent making of nine assessments has not been served on the petitioner. Therefore, the Court held that it would be in the interest of justice to direct the respondent/Municipality to serve the assessment orders on the petitioner and to make payment for property tax due from the petitioner in respect of the assessment and the petitioner was directed to pay the amount forthwith subject to his other statutory rights. In fact, the above direction was a consent order as noted by the Court in the order dated 19.03.2002. Thus, the petitioner's objection is that the number of assessments were made without notice to him and therefore he is entitled to receive a copy of the assessments and also exercise his statutory rights available to him. However, the respondents without serving the assessment order along with the demands, issued only the impugned demands. Therefore, the petitioner is before this Court challenging the impugned communication and the annexures thereof.

5. The learned standing counsel for the respondent/Municipaliy submitted that Municipality would require sufficient time to regenerate the assessment proceedings and communicate the same to the petitioner. There

is no other option for the respondent / Municipality as the direction issued in the earlier writ petition has attained finality and they have been complying with the direction scruplously.

6. For the above reason, the writ petition stands allowed, the impugned order is set aside with the direction to the respondent to serve the copies of the assessment order in respect of all the assessments made on the petitioner's building along with demand notices within a period of four weeks from the date of receipt of a copy of this order. After which the petitioner is directed to pay the amount as demanded if they are not disputed by him. It is open to the petitioner to avail other statutory remedies available under the relevant statute. No costs. Consequently connected miscellaneous petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To
The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai-600 044.

+1cc to P.Srinivas Advocate SR.No.10332

+2cc to Mr.Prakash Goklaney Advocate SR.No.9677

KP 26.02.2018