IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3477 of 2010
And
M.P.No.2 of 2010

N.S.Shobana
Rep by her Power
of Attorney N.Sampath .. Petitioner

Vs.

1. Assistant Revenue Officer,
   Corporation of Chennai,
   4th Street, Lake Area,
   Nungambakkam,
   Chennai-34.

2. The Commissioner,
   Corporation of Chennai,
   Chennai. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records in Se.ma.AA.Va.Thu/special/200 - 0 which was affixed on the petitioner's premises and quash the same.

For Petitioner : M/s.Sankar & Pandian Associates.

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

The auction notice affixed and issued by the respondents in respect of the petitioner's premises for non-payment of the arrears of property tax, is under challenge in this writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner purchased the property bearing Door No.189, in old survey number 26 and R.S.No.323/2, Anna Salai, Chennai, measuring 5320 sq.ft., in second floor out of 46,428 sq.ft., in Aarti Chambers, together with individual share of 2487.20 sq.ft., in 9 grounds and 106 sq.ft., of land and the

proportionate share in the common areas and cafilities and fight to part cars in the compound through a registered Sale Deed dated 23.12.2006 from M/s.India Autoinsure Solutions Private Limited, in document No.1968/06 on the file of S.R.O., Triplicane.

3. The respondent-Corporation has assessed the property tax payable to the property as Rs.23,952/-. The writ petitioner, after her purchase, paid the property tax for a sum of Rs.23,952/- for the second half yearly for the assessment year 2005-2006 on 21.3.2006. For the assessment year 2006-2007, on 26.12.2006, the writ petitioner paid a sum of Rs.47,904/- for which the first respondent has given a receipt. The claim of the writ petitioner is that she had shown her bona fide and paid the property tax dues. In spite of that the respondents have taken action.

4. The grievance of the writ petitioner is that the respondents have assessed the property tax in respect of the premises exorbitantly and the representation submitted by the writ petitioner in this regard was not considered. Thus, the writ petitioner is constrained to move the present writ petition.

5. The learned counsel, appearing on behalf of the respondent-Corporation, informed this Court that the arrears of property tax due in respect of the petitioner-premises, as of now, is Rs.15,02,026/-. Thus, the writ petitioner is a chronic defaulter of payment of property tax to Corporation of Chennai.

6. This apart, the learned counsel for the respondent-Corporation states that actions were initiated and auction notice was issued and affixed in the premises of the writ petitioner on account of the pendency of the present writ petition for the past 9 years, the respondents are unable to initiate all further actions pursuant to the auction notice.

7. This Court is of an opinion that undoubtedly, the writ petitioner is a chronic defaulter of payment of property tax arrears to Corporation of Chennai. The writ petitioner, as of now, is liable to pay as arrears of property tax a sum of Rs.15,02,026/-. Already actions were initiated in respect of the property belongs to the writ petitioner and the auction notice was issued. Thus, the writ petitioner has to clear the entire property tax arrears immediately, failing which the respondent-Corporation is at liberty to proceed against the property belongs to the writ petitioner by following the procedures contemplated under law.

8. Citizen in general are using the infrastructure facilities and other common amenities, including roads etc., provided by the local authority and the State. When the citizen

are using such common amenities and infrastructural facilities, they are bound to pay the property tax, within the time limit prescribed by the authorities concerned.

9. Payment of property tax is to be cleared in the interest of public at large. Non-payment of property tax would be treated as an infringement on other's right. For instance, if a few citizen refused to pay property tax to Chennai Corporation by utilising the infrastructural facilities and other amenities from and out of the tax payers' money, then they are infringing the rights of other citizen. It is the duty cast on the part of the authorities concerned to ensure that every citizen is paying the property tax in the interest of the public at large.

10. Evasion of the property tax is to be construed as an offence. Evasion of property tax will result in denial of rights of others. When equity in law and the constitutional rights are provided to every citizen, this Court is of an opinion that the same is to be ensured by uniform implementation of law in respect of all concerned. Thus, the payment of property tax and recovery of such tax by the competent officials are the important functions of the State ensured under the Constitution of India. Any inaction on the part of the officials are also to be viewed seriously. The officials, who are duty bound to collect the property tax from the persons concerned, also should face departmental proceedings on the hands of the Disciplinary Authorities.

11. Thus, it is made clear that if the property tax and the arrears are not collected promptly by the officials concerned, then the Commissioner of Chennai Corporation is bound to initiate appropriate disciplinary proceedings against all such officials for their inaction, negligence and dereliction of duty. In this view of the matter, it is made clear that the writ petitioner cannot evade payment of property tax on account of the disputes prevailing between the tenant and the landlord. It is the joint responsibility of the landlord and the tenant and of course, the Corporation of Chennai, cannot made to suffer on account of such disputes.

12. The grounds raised by the writ petitioner that the representation submitted by her is pending for consideration, is not a ground for non-payment of arrears of property tax to Corporation of Chennai. The writ petitioner is duty bound to pay the property tax arrears in accordance with law and all other related charges.

13. This being the factum of the case, the writ petitioner has not established any acceptable ground for the purpose of considering the relief, as such, sought for in the writ petition.

14. In this view of the matter, the following directions are issued:-

(i) The writ petitioner is directed to pay the entire arrears of property tax for a sum of Rs.15,02,026/-, within a period of two weeks from the date of receipt of a copy of this order;

(ii) If the writ petitioner fails to pay the arrears of property tax, within a period of two weeks, stipulated above, then the respondents are directed to proceed against the writ petitioner and the property, in the manner known to law for recovering the arrears of property tax, within a period of four weeks thereafter.

15. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar
Dated: 19.09.2018

*** Corrected order to be issued;**
sd/- Sub Assistant Registrar
Dated: 04.04.2019

// True Copy//

Sub Assistant Registrar

Svn
To

1. Assistant Revenue Officer,
   Corporation of Chennai,
   4th Street, Lake Area,
   Nungambakkam,
   Chennai-34.

2. The Commissioner,
   Corporation of Chennai,
   Chennai.

To be substituted to the order already despatched on 10.10.2018.

+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.62346

WP 3477 of 2010

RMP(25/09/2018)
SP(04/04/2019)