IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.01.2018

Coram :

The Honourable Mr.Justice T.S.Sivagnanam

Writ Petition No.4453 of 2011 & MP.No.1 of 2011

C.K.Balakrishnan ...Petitioner

Vs.

The Commissioner, Mettupalayam
Municipality, Mettupalayam. ...Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to accept the payment of arrears of property tax of Rs.2,45,488/- in twenty equated monthly installments by the petitioner for his building having Door Nos.6, 6A and 9, Senthil Theatre, New Extension Main Road in the Survey No.342, Ward No.14, having property tax assessment Nos.7700, 7701 and 7702 on the file of the respondent Municipality and consequently forbear the respondent, his men, agent and subordinates from in any manner proceeding with distraint action against the petitioner and his tenants till such time.

For Petitioner : Mr.Karthik Ranganathan for
Vadivel Murugan

For Respondent : No appearance

ORDER

Heard the learned counsel for the petitioner.

2. The petitioner filed this writ petition seeking to direct the respondent to accept the payment of arrears of property tax of Rs.2,45,488/- in twenty equated monthly installments in respect of the building more fully described in the prayer to the writ petition.

3. The petitioner's father purchased several properties and the property, which is the subject matter of this writ petition, was also owned by him. The father of the petitioner died on 06.5.2002 leaving behind 8 legal heirs. The petitioner already

filed a suit in O.S.No.498 of 2009 on the file of the District Court, Coimbatore, which is presently transferred to the Fast Track Court, Coimbatore, for partition of all properties including the property, which is the subject matter of this writ petition and the suit is still pending.

4. In the meantime, because of the on-going civil suit, another dispute arose for remittance of property tax and ultimately, the property tax was not remitted. Hence, the tenants of the property were issued with notices for recovery of arrears of property tax.

5. The learned counsel for the petitioner would submit that the property is in a dilapidated condition without any electricity connection, that the tenants are paying the rent at the rate of Rs.100/- per month and taking advantage of the dispute within the family and the pendency of the suit. Nevertheless, the petitioner would state that he is willing to pay the tax and all that he requires is to grant time to clear the arrears upto 2011.

6. At the time when the writ petition was entertained, this Court granted an order of interim injunction on 24.2.2011 subject to a condition that the petitioner pays a sum of Rs.75,000/-.

7. The learned counsel for the petitioner submits that this condition has been complied with.

8. However, the correctness of this statement cannot be readily verified because the respondent did not care to enter appearance, though notice has been served and the name of the respondent is printed in the cause list.

9. The learned counsel for the petitioner submits that during the pendency of this writ petition, some more payments have been effected by the petitioner. With regard to the property tax payable after 2011, the learned counsel would submit that the respondent - Municipality has increased the property tax arbitrarily without following any assessment procedure. Therefore, he requests that the petitioner may be granted leave to contest the enhancement without prejudice to the claims of the defendants in the pending civil suit.

10. Considering the above factual position, the writ petition is disposed of giving liberty to the petitioner to clear the remaining arrears of property tax upto 2011 within a period of six months from the date of receipt of a copy of this order in six equal monthly installments. So far as the property tax payable after 2011 is concerned, since the petitioner states

that there has been arbitrary revision of property tax without following due procedure, the petitioner is also granted liberty to challenge such revision before the appropriate forum under the provisions of the Tamil Nadu District Municipalities Act and such challenge shall be without prejudice to the rights of the defendants in the pending civil suit for partition. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
The Commissioner, Mettupalayam Municipality, Mettupalayam.

+1cc to Mr.C.Thirumaran, Advocate SR.No.1742
+1cc to Mr.Karthik Ranganathan, Advocate Sr.No.1022

sm:25.1.2018

WP.No.4453 of 2011
and MP.No.1 of 2011