IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4819 of 2011
AND
M.P. No. 1 of 2011

M.K. Ravi ... Petitioner

..Vs..

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

2. Assistant Revenue Officer,
   Zone IV, Corporation of Chennai,
   No. 2, Dr. Besant Salai,
   Chennai - 600 005.

3. Chennai Metropolitan Water Supply
   and Sewerage Board,
   Rep by Managing Director,
   No. 1, Pumping Station Road,
   Chintadripet, Chennai - 600 002.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the second respondent dated 06.01.2011 in reference No.செ.ம.அ.வ.து.சிறப்ப. 2010-11 and quash the same.

For Petitioner : Mr.K.V. Sundarajan

For Respondents : Mr.T.C.Gopalakrishnan
For R.1 & 2

Mr. N.Ramesh
For R.3

O R D E R

The final warrant notice issued to the Writ Petitioner to pay the arrears of property tax, is under challenge in the present Writ Petition.

2. The learned counsel appearing on behalf of the Writ Petitioner states that the petitioner is the owner of the premises bearing Old door No. 12, New door No. 12, Bo Begum Sahib IV Street, Chennai - 600 002.

3. The grievance of the Writ petitioner is that the assessment has not been done properly. This apart, no prior notice was given enabling the writ petitioner to submit objections, in respect of the assessment now notified. At the outset, the petitioner contends that the reasonable opportunity has not been provided to him to defend his case, in respect of the assessment made by the respondent Corporation.

4. The learned counsel appearing on behalf of the Chennai Corporation opposed the contention by stating that the assessment including the measurement of the building had been done by the Field Level Officer and an assessment order is prepared and served to the assesse. If at all, the assesse is aggrieved from and out of any such assessment, he is at liberty to approach the appellate authority namely the Commissioner, Chennai Corporation, under the provisions of the Chennai City Municipal Corporation Act, 1919. The Commissioner is entitled to adjudicate the appeal and verify the correctness of the assessment made by the original authority. Even thereafter, the assesse is having the avenue of preferring an appeal before the Taxation Appellate Tribunal and thereafter, Municipal Appeal cases before the Principal District Judge, City Civil Court, Chennai. These all are the appeal provisions available under the Chennai City Municipal Corporation Act, 1919. Without exhausting all these statutory remedies, no Writ Petition can be entertained by this Court under Article 226 of the Constitution of India.

5. Admittedly, the petitioner has not preferred any such appeal remedy contemplated under the Act. Contrarily, the petitioner pleads that no opportunity was provided to him before passing the order of assessment. The original authority passed an order of assessment based on the field verification and based on the measurement provided to them. Thus, if any grievances arise, it is left open to the writ petitioner to approach the appellate authority.

6. By filing the present Writ Petition on 04.02.2011, the petitioner has paid half of the property tax to the respondent Corporation.

7. The learned counsel appearing on behalf of the respondent Corporation made a submission that the arrears of property tax to be paid by the Writ Petitioner as of now is Rs. 44,888/-. The learned counsel appearing on behalf of the Chennai Metropolitan Water Supply and Sewerage Board also states that the Writ Petitioner has to pay the arrears of Water and Sewerage taxes to the tune of Rs. 16,388/-. Thus, the petitioner is liable to pay all the taxes and if he is still aggrieved, he is at liberty to avail an appeal remedy contemplated under the Act.

8. The Payment of tax can never be evaded or avoided by the citizens. Citizens residing within the Chennai City area are availing the common infrastructure facilities and other amenities provided by the Chennai Corporation. When the citizens are utilizing the infrastructure facilities and other amenities provided for common purpose, then they are duty bound to pay the property tax to the Corporation and Metro Water Board within the time limit prescribed. Non-payment of property tax and other statutory charges is to be construed as an infringement of the legal rights of other citizens. The Writ Petitioner is not supposed to utilize common amenities and infrastructures at the cost of other tax payers. Every citizen is bound to pay tax in time. In the event of any discrepancy or any dispute in relation to the assessment or otherwise, aggrieved person is at liberty to prefer the appeal in a manner known to law. However, payment of tax must be made without any delay. Under the guise of such dispute or discrepancy, the tax payer shall not make any attempt to evade the payment of tax or postpone the same for an unspecified period. Such an attitude and misconduct of the citizens should be certainly deprecated.

9. Thus, this Court is of an opinion that rights of all other citizens are also to be protected. in the event of not paying the tax by few individuals and the same will affect the welfare schemes to be provided by the Corporation to the citizens. This being the principles to be adjudicated, this Court is of an opinion that the Writ Petitioner is liable to pay the entire property tax due and thereafter, if he is aggrieved in respect of any such assessment, he is at liberty to approach the competent appellate authority in the manner prescribed under the Act. Accordingly the following orders are passed:

1. The relief as such sought for in the present

Writ petition stands rejected.

2. The Writ Petitioner is directed to pay the arrears of property tax amount of Rs. 44,888/- to the Chennai Corporation and Rs. 16,388/- to the Chennai Metropolitan Water Supply and Sewerage Board within a period of four weeks from the date of receipt of copy of this order.

3. In the event of not paying the property tax within the time limit stipulated above, the respondents are directed to initiate all further proceedings to recover the arrears of property tax by following procedures contemplated under law.

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

Sd/-
Assistant Registrar(CS)

sk/mrm

//True Copy//

Sub Assistant Registrar

To

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

2. Assistant Revenue Officer,
Zone IV, Corporation of Chennai,
No. 2, Dr. Besant Salai,
Chennai - 600 005.

3. Chennai Metropolitan Water Supply
and Sewerage Board,
Rep by Managing Director,
No. 1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

+1cc to Mr.K.V. Sundarajan , Advocate SR.No. 65699
+1cc to Mr.N.Ramesh , Advocate SR.No. 65338
+1cc to Mr.T.C.Gopalakrishnan , Advocate SR.No. 65071

W.P.No.4819 of 2011

ASK(23/10/2018)