In the High Court of Judicature at Madras

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14593 of 2018 & WMP.No.17233 of 2018

R.Subramanian (Retd. Lakshmi
Vilas Bank Ltd) ...Petitioner

Vs

1.The Commissioner, Kancheepuram
Municipality, Kancheepuram.

2.The Revenue Officer, Kancheepuram
Municipality, Kancheepuram. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the revised notice of property tax issued in Reference No. 008/040/00613 with respect to assessment No.008/35634 for the period 2018-19-I and 2018-19-II for payment of Rs.6132.00 in total per annum issued by the respondents and quash the same.

For Petitioner : Mr.V.Chokalingam
For Respondents: Mr.G.B.Rajesh

ORDER

Mr.G.B.Rajesh, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a retired Bank Officer, has purchased a plot in State Bank Colony, Toll Gate, Chinnakanchipuram during the year 2008 and constructed a house in the said property and is residing in the said building. The respondent Municipality assessed his property to tax and the records placed before this Court show that there are no arrears of property tax payable by the petitioner. The petitioner is aggrieved by the demand notice issued by the respondent Municipality calling upon the petitioner to pay a sum of Rs.6,132/-, which being the revised/enhanced property tax for the period I/2018-19 and II/2018-19.

3. The learned Standing Counsel appearing for the respondents would submit that the enhancement is reasonable, as the old property tax was Rs.1,019/- and it is revised to Rs.2,706/- per half year.

4. From the impugned demand notice, it is not clear as to what is the basis of revision of property tax since the petitioner has emphatically stated on facts that there is no additional construction in the property, that there is no general revision of property tax for the neighbouring owners in the State Bank Colony, Chinnakanchipuram and that the procedure required to be followed under the provisions of the Taxation Rules framed under Section 4 of the District Municipalities Act, 1920 has not been adhered to.

5. This Court had an occasion to consider an identical issue with regard to revision of property tax under the Chennai City Municipal Corporation Act 1919 in the case of ***G.Hariharasubramanian Vs. Assistant Revenue Officer [reported in 2018 (1) CTC 607]*** wherein the petitioner therein contended that he alone had been singled out and discriminated and that

without even following the assessment procedure, there had been a revision of property tax. This Court accepted the submissions made by the petitioner therein and pointed out that an individual assessee cannot be singled out especially when there was no additional construction or there was no change of user. This Court further pointed out that the revision of property tax cannot be made without proper provisional assessment, but only after inviting the objections and thereafter, a speaking order has to be passed on the objections raised by the assessee.

6. It is not clear as to why the respondent Municipality has targeted the petitioner alone in the instant case and revised the property tax. This Court is unable to accept the stand taken by the respondent Municipality that the revision of property tax is only a mistake. There cannot be any revision of property tax without following the procedure. That apart, the respondent Municipality ought not to have initiated distraint proceedings straightaway when they failed to follow the procedure for revision of property tax. The petitioner has also stated that the tax pertaining to the properties of the neighbouring owners has not been revised and that the petitioner alone has been singled out. For all the above reasons, the impugned demand notice is held to be without jurisdiction.

7. Hence, the writ petition is allowed and the impugned order is quashed leaving it open to the respondent Municipality to follow the procedure under the Statute and proceed in accordance with law. No costs. Consequently, the connected WMP is closed.

18.6.2018

T.S.SIVAGNANAM,J

RS

Internet : Yes

To
1.The Commissioner, Kancheepuram Municipality, Kancheepuram.
2.The Revenue Officer, Kancheepuram Municipality, Kancheepuram.

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