IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28626 of 2018
and
W.M.P.No.33411 of 2018

Parivar Seva Sanstha -
Reproductive Heal Services
Rep. By its Clinic- Executive
Mrs.K.Vani
No.8/4, Mahalakshmi Street,
T.Nagar, Chennai - 600 017. ..Petitioner

vs.

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

2. The Deputy Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

3. Assistant Revenue Officer,
Zone-VIII, Division 117,
Corporation of Chennai,
NSK salai, Kodambakkam,
Chennai - 600 024. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Z.O.-10/RDC.C.No.8637/2018 dated 30.08.2018 on the file of the 2nd respondent and quash the same as illegal, arbitrary and against the provisions of the Chennai City Municipal Corporation Act, 1919, and consequently direct the 1st respondent to grant exemption to the petitioner from payment of property tax for their property at No.8/4, Mahalakshmi Street, T.Nagar, Chennai - 600 017.

For Petitioner : Mr.P.B.Balaji
For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

O R D E R

Mr.T.C.Gopalakrishnan, learned standing takes notice for the respondents.

2. The petitioner is aggrieved against the proceedings of the 2nd respondent date 30.08.2018, wherein and whereby, the request of the petitioner seeking exemption to the petitioner from paying the property tax under section 101 (E) of the Madras City Municipal Corporation Act, 1919, was rejected.

3. Heard both sides.

4. The main contention of the petitioner is that the impugned order was passed by the 2nd respondent in total violation of the directions issued by this Court in W.P.No.25872 of 2003 dated 02.07.2018, where the Commissioner, Corporation of Chennai alone was directed to consider the request of the petitioner and pass orders after hearing the petitioner. Thus, it is contended that the 2nd respondent, being the Deputy Commissioner, is not entitled to pass the impugned order.

5. On the other hand, the learned Standing Counsel appearing for the respondents submitted that the Commissioner is empowered to delegate his power to the Deputy Commissioner and therefore, the second respondent has rightly passed the impugned order, based on such delegated power.

6. It is seen that the petitioner has filed a writ petition earlier in W.P.No.25872 of 2003, challenging the demand notice dated 24.02.2003 as well as a communication that the petitioner is not exempted from payment of property tax under section 101(E) of the Madras City Municipal Corporation Act, 1919. The said writ petition was disposed of on 02.07.2018 by directing the Commissioner of Corporation of Chennai to consider the request of the petitioner seeking for exemption and pass reasoned order on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. Therefore, it is evident that only the Commissioner, Corporation of Chennai, was directed to pass such order and not the Deputy Commissioner. Even though it is contended by the learned counsel for the respondents that the Commissioner has power to delegate the exercise to be done by the Deputy Commissioner, that could be done only under normal circumstances and not when a specific direction was issued by this Court as stated supra. Therefore, it is for the Commissioner to pass an order as directed by this Court and not the Deputy Commissioner as has been done in this case. Therefore, on this short ground, this Court is inclined to set aside the impugned order and remit the matter back to the first respondent for passing order on merits and in accordance with law, after giving due opportunity of hearing to the

petitioner. It is made clear that this Court is not expressing any view on the merits of the claim made by the respective parties, at this stage.

7. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent for passing fresh order on merits and in accordance with law, after giving due opportunity of hearing to the petitioner. Such exercise shall be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Vsi

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

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

2. The Deputy Commissioner,
   Corporation of Chennai,
   Ripon Buildings, Chennai - 600 003.

3. Assistant Revenue Officer,
   Zone-VIII, Division 117,
   Corporation of Chennai,
   NSK salai, Kodambakkam,
   Chennai - 600 024.

+ 1 cc to Mr.T.C.Gopalakrishnan, Advocate Sr 75156

+ 1 cc to Mr.P.B.Ramanujam, Advocate Sr 75209

KR/19/11/18 W.P.No.28626 of 2018