IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A.No.2691 of 2018
and
C.M.P.No.21925 of 2018

S.Krishnan .. Appellant/Petitioner

vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
E.V.R. Periyar Salai,
Chennai - 600 003.

2.The Assistant Revenue Officer,
Zonal Officer - VI,
Corporation of Chennai,
Chennai - 600 023. .. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.09.2018 made in W.P.No.29141 of 2015.

For Appellant : Mr.Jayaprakash
for Mr.T.N.Rangesh Kanna

For Respondents : Mr.T.C.Gopalakrishnan
Standing Counsel

JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

Heard Mr.Jayaprakash, learned counsel for Mr.T.N.Rangesh Kanna, learned counsel for the appellant and Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondent Corporation.

2.The appellant is aggrieved by the order passed in W.P.No.29141 of 2015 dated 24.09.2018 which was filed by the appellant challenging the notice issued by the respondent Corporation in Notice No.7 dated 23.06.2015. By the said notice, the respondent Corporation proposed to revise the half yearly property tax of the petitioner's building which was classified as Kalyanamandapam from Rs.7,830/- per half year to Rs.1,57,040/- per half year. Several grounds were raised by the petitioner in the writ petition. Ultimately, the writ petition was rejected by the impugned order, however, there was a direction to the respondent Corporation to conduct a fresh inspection of the building subject to the condition that the petitioner pays a sum of Rs.28,97,630/- being the arrears of property tax as per the proposed revision of property tax at Rs.1,57,040/-.

3.The directions contained in the writ petition are in paragraph 8 of the impugned order, which is quoted herein below:

(1) The relief as such sought for in the present writ petition is rejected.
(2) The petitioner is directed to pay the arrears of property tax of Rs.28,97,630/- within a period of four weeks from the date of receipt of a copy of this order.
(3) On payment of the property tax assessed as stated above within the time limit stipulated, the respondent Corporation is directed to conduct an inspection afresh and assess the property and issue an assessment order by following the procedures as contemplated under the Act and Rules.
(4) In the event of any excess payment by the writ petitioner, the same shall be adjusted towards the future payment of property tax. In the event of lesser payment, the petitioner is directed to pay the balance amount of arrears of property tax, if any, to be paid.

4.We do not have any reservation with regard to the rejection of the prayer sought for by the learned Single Bench in paragraph 8(1). So far as the direction to pay Rs.28,97,630/- is concerned, strictly speaking the same cannot be treated as arrears of property tax since what was mentioned in the writ petition was the revision notice proposing to revise the property tax to

Rs.1,57,040/- per half year from Rs.7,830/- per half year. In fact, the impugned notice in the writ petition provided for an appeal to be filed before the Commissioner, Corporation of Chennai.

5.However, considering the fact that the building is a commercial building, the area of the plot is mentioned as 13,200 sq.ft. and the building consists of Ground + 2 Floors having a substantial constructed area, we are of the view that while protecting the interest of revenue, we will also grant a partial relief to the appellant. Accordingly, paragraph 8(2) of the impugned order in the writ petition is modified as follows:

> "8(2).The appellant is directed to clear the entire arrears of property tax at the rate of Rs.7,830/- per half year till date and there should be no arrears. In addition to the same, the appellant is directed to pay a sum of Rs.15 lakhs towards the property tax for the appellant's building within a period of four weeks from the date of receipt of a copy of this judgment. This amount of Rs.15 lakhs can be paid in one lumpsum or in two instalments. If the above condition is complied with, then the respondent Corporation shall comply with the direction contained in paragraph 8(3) and (4) of the impugned order in the writ petition."

6.The writ appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

(T.S.S.,J.) **(N.S.K.,J)**

13.12.2018

cse

Index:Yes/No

Internet:Yes/No

Speaking Order/Non-speaking Order

To

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