THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.603 of 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri J.Prabhakar, learned counsel for the appellant-writ petitioner, learned Government Pleader for Panchayat Raj and Sri G.Narender Reddy, learned Standing Counsel for the Gram Panchayat and, with their consent, the Writ Appeal is disposed of at the stage of admission. This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.6670 of 2018 dated 05.03.2018. The appellant herein filed the said writ petition questioning the demand notice issued by the Gram Panchayat dated 23.02.2018 calling upon them to pay Rs.6,21,640/- as property tax.

The table, in the said notice, records that the arrears of house tax and library cess upto 31.03.2017 was Rs.4,66,230/-, and house tax and library cess for the current year i.e 01.04.2017 to 31.03.2018 was Rs.1,55,410/-. On the said notice being subjected to challenge, the Learned Single Judge, by the order under appeal, granted liberty to the appellant-writ petitioner to challenge the impugned notice by filing a revision within a period of two weeks on condition that they deposited a sum of Rs.80,000/- within a period of two weeks. The respondents were directed not to demand tax for the year 2017-2018 pending revision, as well as the revision that may be filed by the appellant-writ petitioner, which were directed to be disposed of within a period of 12 weeks from the date of receipt of a copy of the order.

The appellant-writ petitioner had earlier invoked the jurisdiction of this Court filing W.P.No.8484 of 2017 which was disposed of by order dated 10.03.2017, leaving it open to the appellant-writ petitioner to prefer a revision against the impugned notice dated 17.12.2016 within three weeks from the date of receipt of a copy of the order; and, if any such revision was filed, the same should be considered and appropriate orders should be passed, in accordance with law, after giving notice and opportunity of hearing to the appellant-writ petitioner. Till a decision was taken, the respondents were directed not to take any coercive steps.

In appeal, a Division Bench of this Court, in its order in W.A.No.505 of 2017 dated 18.04.2017, held that the appellant-writ petitioner had not been informed that he could seek revision of the enhanced assessment. The Division Bench, therefore, permitted the appellant-writ petitioner to file a petition seeking revision of the assessment and observed that, in case a petition for revision of assessment was filed within 30 days from the date of the order, the respondents should consider the same, and pass orders thereupon, in accordance with law, within thirty days thereafter. The Division Bench further observed that, as directed by the Learned Single Judge, till orders were passed on the appellant-writ petitioner's application for revision, no coercive steps should be taken to recover the amounts due under the enhanced assessment. It was also made clear that, in case the appellant-writ petitioner failed to submit a petition seeking revision, within the aforesaid period of thirty days, it would then be open to the respondents to proceed and take action in accordance with law.

Sri J.Prabhakar, learned counsel for the appellant-writ petitioner, would submit that an extension application was filed in WAMP.No.2240 of 2017 which was allowed, by order dated 20.10.2017, permitting the appellant-writ petitioner to file the present revision by 31.10.2017; and the appellant-writ petitioner had submitted his revision on 27.10.2017 itself, well within the extended time. If that be so, the respondent-Gram Panchayat could not have called upon the appellant-writ petitioner to pay arrears of tax, for the period 2014-15 to 2016-17, since the revision, with regards enhanced assessment for these three years, is pending consideration before the authority concerned.

In the light of the order of the Division Bench in W.A.No.505 of 2017 dated 18.04.2017, as extended by the order in WAMP.No.2240 of 2017 dated 20.10.2017, the impugned demand notice, to the extent the appellant-writ petitioner was called upon to pay arrears of tax, for the three year period 2014-15 to 2016-17, is set aside. The appellant-writ petitioner's liability to pay the enhanced tax shall be subject to the outcome of the revision petition filed by them.

With regards enhanced assessment for the year 2017-18, the Learned Single Judge has, as against the impugned demand notice requiring the appellant-writ petitioner to pay Rs.1,55,410/-, directed the appellant-writ petitioner, by the order under appeal, to deposit Rs.80,000/- pending revision. While Sri J.Prabhakar, learned counsel for the appellant-writ petitioner, would submit that the Learned Single Judge ought not to have called upon the appellant-writ petitioner to deposit Rs.80,000/-, in the light of the earlier order passed inter-parties in W.A.No.505 of 2017 dated 18.04.2017, we must bear in mind that, in an intra-Court appeal preferred under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. While we may have, following the earlier directions issued in W.A.No.505 of 2017 dated 18.04.2017, directed the respondents not to take coercive action pending revision, the Learned Single Judge has chosen to exercise his discretion to permit the appellant-writ petitioner to prefer a revision on condition that they deposited Rs.80,000/-. It is only if the exercise of such discretion is held to be patently illegal, would a Division Bench be justified in interfering with the said order, in the exercise of its jurisdiction under Clause 15 of the Letters patent. We find it difficult to hold that the order under appeal suffers from any such infirmity.

While we see no reason to interfere with the order of the Learned Single Judge, directing the appellant-writ petitioner to deposit Rs.80,000/-, it is brought to our notice by Sri J.Prabhakar, learned counsel for the appellant-writ petitioner, that an amount of around Rs.13,000/- has already been paid towards property tax for the year 2017-18. If that be so, the appellant-writ petitioner shall be given credit for the said amount paid towards house tax and library cess for the year 2017-18, from the amount of Rs.80,000/- directed to be paid by the Learned Single Judge in the order under appeal. Subject to the conditions as stipulated hereinabove being complied with within three weeks, the time to prefer a revision is also extended by three more weeks.

The Writ Appeal is disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

19th April, 2018
Note: Issue C.C. in two days.
JSU

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AND

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<u>Date: 19.04.2018</u>

JSU