IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04-07-2019

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.2295 of 2019
And
W.M.P.Nos.2539 and 2540 of 2019

Mrs.Rafat Begum ..Petitioner

..Vs..

1.The Asst. Revenue Officer,
Zone-V, Greater Chennai Corporation,
No.61, Basin Bridge Road,
Old Washermanpet,
Chennai-600 021.

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

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the proceedings of the first respondent bearing No.Z.O.V.R.D.C.No.R1/SPL/2018 dated 19.11.2018 and quash the same and consequently direct the respondents in not to any manner levy/impose/demand or in any manner collect Property Tax in respect of the building situate at No.97/36 Godown Street, Chennai-600 001 other than following the procedure as laid down in the provisions of the Chennai City Municipal Corporation Act of 1919.

For Petitioner : Mr.Bhuvaneeswar for
Mr.T.T.Ravichandran.

For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel for Chennai
Corporation.

O R D E R

Mr.Bhuvaneeswar learned counsel representing counsel on record for writ petitioner Mr.T.T.Ravichandran is before this Court. Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation is before this Court on behalf of both respondents.

2. With consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and is being disposed of.

3. Subject matter of instant writ petition is enhancement of property tax under 'Chennai City Municipal Corporation Act 1919' ('CCMC Act' for brevity) for an immovable property which forms subject matter of instant writ petition and which is situate at 'No.97/36, Godown Street, Kothavalchavadi, Sowcarpet, Chennai- 600 001' (hereinafter 'said property' for brevity).

4. It is the case of the writ petitioner that she was visited with a notice dated 19.11.2018 bearing Reference Z.O.V.R.D.C.No.R1/SPL/2018 (hereinafter 'impugned notice' for brevity) demanding property tax for said property at the rate of Rs.1,08,645/- (One Lakh Eight Thousand Six Hundred and Fortyfive only) and purported arrears owing to enhancement.

5. Learned counsel for writ petitioner submits that obtaining half yearly rate of property tax is Rs.2,799/- for said property and that the same has been paid regularly. In this regard, attention of this Court is drawn to the property tax demand card. Learned counsel further submits that writ petitioner was not put on any notice about enhancement of property tax from Rs.2,799/- and the writ petitioner was not given any opportunity to object to the enhancement. In other words, it is the specific case of the writ petitioner that no provisional assessment notice was served, objections were not called for and the writ petitioner was not aware of the enhancement until receipt of the impugned demand notice.

6. With regard to the demand for arrears, learned counsel submits that the writ petitioner is not in arrears of property tax for said property and the property tax at the rate of existing Rs.2,799/- has been paid upto the current half-year of 1/2019-2020 (i.e., from 1.4.2019 to 30.09.2019).

7. Learned Standing Counsel for Chennai Corporation submits that property tax for said property was at Rs.2,904/- (Rupees Two Thousand Nine Hundred and Four only) and that a provisional notice was issued proposing enhancement to Rs.1,08,645/-. However, there is no disputation that this provisional notice was despatched by ordinary post. Learned counsel for writ petitioner asserts that no such notice was received. There is nothing before this Court to demonstrate that the proposed provisional assessment notice was served on the writ petitioner.

8. In the light of an order made by this Court in WP No.3231 of 2019 dated 4.2.2019, it is necessary that before enhancement of property tax, provisional assessment is issued, assessee should be given an opportunity to object to the same and thereafter final assessment should be made in accordance with law. There can be demand only thereafter.

9. To be noted, aforementioned order of a Hon'ble Single Judge was made drawing inspiration from a Division Bench judgment in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai, reported in 2009 (2) CTC 465 and the principle laid down by the Division Bench that there should be determination qua assessment after considering objections of assessee and final assessment before demand is also relevant.

10. In the light of narrative thus far, following order is passed:

(a) Chennai Corporation shall serve a provisional assessment order for said property with due acknowledgment, proposing enhancement from Rs.2,904/- to Rs.1,08,645/-, giving parameters, determinants and mode of computation. In this provisional assessment notice, writ petitioner should be given sufficient time to send objections.

(b) Objections shall be sent by writ petitioner to the jurisdictional Regional Deputy Commissioner, after writ petitioner sends objections, the jurisdictional Regional Deputy Commissioner shall pass final assessment order in accordance with law after considering all aspects of objections that are raised by the respondents.

(c) Aforesaid final assessment order shall be passed as expeditiously as possible and in any event, within six weeks from the date of receipt of objections from the writ petitioner.

(d) Final assessment order shall be served on the writ petitioner under due acknowledgment. Though obvious, it is made clear that it is open to the writ petitioner to assail the final assessment in a manner known to law if the writ petitioner is not satisfied with the same.

11. As would be evident from the narrative thus far, as far as the present obtaining rate of property tax for said

property is concerned, while the writ petitioner relying on the property tax demand card and receipts says that it is Rs.2,799/- (Rupees Two Thousand Seven Hundred and Ninetynine only), learned Standing Counsel says that it is Rs.2,904/- (Rupees Two Thousand Nine Hundred and Four only).

12. Be that as it may, there shall be no coercive action qua said property and/or property tax for said property subject to the condition that writ petitioner continues to pay property tax for said property at the rate of Rs.2,904/- per half-year till final assessment order is duly made in the aforesaid manner and served on the writ petitioner under due acknowledgment.

13. This writ petition is disposed of with above directions. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//
Sub Assistant Registrar

Svn

To

1.The Asst. Revenue Officer,
Zone-V, Greater Chennai Corporation,
No.61, Basin Bridge Road,
Old Washermanpet,
Chennai-600 021.

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

+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.56107

WP.No.2295 of 2019

KK(CO)

RRS(21/08/2019)