IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 23.07.2019
CORAM:
THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.3987 of 2010
and
M.P.Nos.1 of 2010 & 1 of 2013

Dr.S.Syamala Devi,
Meera Hospital,
No.6, Thiruvenkadam Street,
Pollachi ... Petitioner

Vs

1.The Taxation Appeals Committee of
Pollachi Municipality, rep by
The Chairman,
Pollachi Municipality,
Pollachi.

2.The Pollachi Municipality
Represented by the Commissioner,
Pollachi. ... 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 of the First Respondent herein, pertaining to the order dated 23.12.2009, made in Na.Ka.No.A1/16598/09 and quash the same and consequently direct the First Respondent herein to hear the Application filed by the Petitioner herein for condonation of delay on merits in accordance with law.

For Petitioner : Mr.Srinath Sridevan
For Respondents: Mr.S.Nedunchezhiyan
for Mr.G.Sankaran

O R D E R

The property tax for the petitioner's property at door No.6, Thiruvenkadam Street, Pollachi was revised from Rs.10,215/- to Rs.20,430/- by the Commissioner of Pollachi Municipality in special notice No.19173, dated 31.03.1999. Hence, the petitioner had approached this Court through W.P.No.17073 of 1999 and this Court, by an order dated 11.08.2008, granted liberty to the petitioner to file an appeal against the revision within a period of four weeks. Since the petitioner had not availed such an opportunity of filing an appeal, the impugned notice dated 23.12.2009 came to be passed demanding arrears of enhanced property tax.

2.The learned counsel appearing for the petitioner submitted that the Tax Appeals Committee had erred in observing that they have no power to condone the delay, since Section 29 of Indian Limitation Act provides that the provision under Section 4 to 24 of the Limitation Act shall apply to any special or local law. As such, he would submit that the committee ought to have considered such a provision and condoned the delay thereby enable the petitioner to file an appeal. The learned counsel also submitted that since the petitioner had suffered from serious ailment and was bedridden she could not able to file the appeal in time.

3.This Court is not inclined to accept such submission made by the petitioner and if at all the petitioner is in requirement of additional time they ought to have approached this Court either seeking extension of time prescribed in the order dated 11.08.2008 in W.P.No.1708 of 1999 or for modification. As such, the impugned order of the first respondent herein cannot be found fault with. As a matter of fact, the first respondent may not have jurisdiction to extend time limit for filing the appeal which was granted by this Court. It is now seen that the property tax was enhanced from Rs.10,215/- to 20,430/- and that the arrears of the enhanced property tax is approximately around Rs.2,00,000/-, after adjusting the part payment made pursuant to the interim order of this Court. Since the petitioner claims that they were unable to file the appeal in time and had undergone through certain medical ailments, this Court is inclined to take a lenient view and give one more opportunity for the petitioner to file an appeal subject to condition that the entire arrears, which could be quantified at Rs.2,00,000/-, shall be deposited by the petitioner within a period of eight weeks along with the appeal.

4.With this liberty, the writ petition stands closed. In case, the petitioner fails to deposit a sum of Rs.2,00,000/- along with the appeal, the respondent is at liberty to proceed against the petitioner seeking for recovery of entire arrears of the enhanced property tax. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

To

1.The Chairman,
The Taxation Appeals Committee of
Pollachi Municipality,
Pollachi Municipality,
Pollachi.

2. The Commissioner,The Pollachi Municipality
Pollachi.

+1 CC to Mr.Srinath Sridevan, Advocate sr 63454.
+1 CC to Mr.G.Sankaran, Advocate sr 63218.

W.P.No.3987 of 2010
and
M.P.Nos.1 of 2010 & 1 of 2013

PA(CO)
SP(27/08/2019)