IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2019

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THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.4645 of 2019
W.M.P.No.5259 of 2019

N.Sadasivam ..Petitioner

vs.

1.The Regional Director of Municipal Administration
GST Road,
Chengalpattu - 603 001.

2.The Commissioner
Chengalpattu Municipality
Chengalpattu
Kancheepuram District- 603 001. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order of the 1st respondent in his proceedings in Na.Ka.No.3118/2018/A2 dated 10.12.2018 and quash the same and consequently, direct the respondents to assess the property tax payable by the petitioner on par with the property tax levied for other buildings in Alagasen Nagar, Chengalpattu Town, Kancheepuram District, within a time frame fixed by this Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner :Ms.S.Pradeepa

For Respondents :Mr.R.P.Pratap Singh,
Government Advocate for R1

Ms.K.Bhuvaneswari,
Additional Government Pleader for R2

O R D E R

Ms.S.Pradeepa, learned counsel on record for writ petitioner is before this Court. Mr.R.Pratap Singh, learned Government Advocate is before this Court on behalf of first respondent. On behalf of second respondent i.e., Commissioner, Chengalpattu

Municipality, Ms.K.Bhuvaneswari, learned Additional Government Pleader is before this Court.

2. With consent of all learned counsel, main writ petition itself is taken up, heard out and disposed of.

3. Subject matter of the instant writ petition is levy of property tax for writ petitioner's immovable property at B-75, Alagesan Nagar, Chengalpattu Town, Kancheepuram District (hereinafter 'said property' for brevity)

4. Trajectory of the hearing thus far reveals that writ petitioner has been making successive attempts to have property tax for said property assessed, on par with the parameters and determinants which have been applied for writ petitioner's neighbouring properties in the same area.

5. Considering the repeated attempts and considering the narrow scope on which instant writ petition turns, more so in the light of the order which this Court proposes to pass today, it may not be necessary to advert to the trajectory and all those details/facts with great elaboration.

6. Suffice to say that writ petitioner's said property was assessed to property tax and writ petitioner was paying half yearly property tax at the rate of Rs.3,398/-.

7. Under the aforesaid circumstances, there was many-folded enhancement and writ petitioner was issued with demand notice which triggered the trajectory which has been referred to supra.

8. Last limb of aforementioned trajectory is that writ petitioner had filed an appeal dated 08.03.2013 to the first respondent and the same was pending.

9. Pending aforesaid appeal against enhancement of property tax qua said property preferred by writ petitioner, enhanced property tax was demanded, owing to which writ petitioner filed writ petition being W.P.No.3297 of 2019, which came to be disposed of by this Court on 20.12.2017.

10. Operative portion of the order of the aforesaid writ petition is contained in paragraphs 4 and 5, which read as follows:

> '4. Considering the limited scope of the prayer made in this writ petition, taking into consideration the facts and circumstances of the case, this Court, without going into the merits of the case, directs the first respondent to dispose of the appeal, dated 08.03.2013, if the same is still pending and pass appropriate orders in accordance

with law, within a period of two months from the date of receipt of a copy of this order, after hearing the petitioner, complainant, if any, and other persons who are likely to be affected. If the appeal is already disposed of, a copy of the order passed in the said appeal, shall be furnished to the petitioner.

5. With the above observations and directions, this Writ Petition is disposed of. No costs.'

11. Thereafter, writ petitioner had sent further objections and the impugned order being order dated 10.12.2018 bearing Reference No.Na.Ka.No.3118/2018/A2 came to be passed by first respondent, but the specific and pointed grievance of the writ petitioner that the same determinants and parameters which have been applied for neighbouring properties in the vicinity for assessing said property has not been considered is learned writ petitioner counsel's say.

12. In response to the above, learned Government Advocate, on instructions, submitted that first respondent has inspected the property, took measurements and thereafter, made assessment. A perusal of the impugned order also reveals that the said property consists of ground, first and second floors and the superstructure appears to be admeasuring 2850 Sq.ft. It may not be necessary to advert to those particulars in any further detail.

13. What is of relevance is two aspects. One is the impugned order does not articulate anything about the parity qua determinants/parameters for neighbouring properties which has been raised by writ petitioner. Further more, there is nothing to show that personal hearing has been granted. To be noted, it is nobody's case that personal hearing has been granted.

14. This Court vide order dated 04.02.2019 in W.P.No.3231 of 2019 relying on a Judgement made by a Hon'ble Division Bench of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465 has held that in property tax matters, provisional assessment has to be made, objections have to be called for from writ petitioner and then final assessment has to be made.

15. In the light of the narrative thus far, as there is nothing to show that the specific objection raised by the writ petitioner has been considered, the following order is passed:

a) impugned order dated 10.12.2018 bearing Reference No.Na.Ka.No.3118/2018/A2 made by first respondent is set aside. To be noted, impugned order is set aside only on two grounds. One is that personal hearing has not been granted and another is that specific objections of the writ petitioner that different yardstick has been applied for assessing neighbouring properties has not been considered.

b) This matter is remanded back to first respondent with a direction to re-hear the matter after giving a personal hearing to writ petitioner and pass an order in accordance with law. While doing so, first respondent shall deal with specific objections of the writ petitioner that neighbouring properties have been assessed by applying different parameters/determinants.

c) Aforesaid exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

d) On orders being passed afresh, first respondent shall serve a copy of the order to the writ petitioner under due acknowledgement in a manner known to law within seven working days from the date of the order.

e) Until the aforesaid exercise is completed, writ petitioner shall continue to pay half yearly property tax at the existing rate of Rs.3,398/- without any delay or default. On writ petitioner paying property tax at this existing rate without any delay or default, status quo with regard to property tax for writ petitioner's said property shall be maintained until disposal of writ petitioner's aforesaid appeal dated 08.03.2013.

This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Regional Director of Municipal Administration,
GST Road,
Chengalpattu - 603 001.

2.The Commissioner,
Chengalpattu Municipality,
Chengalpattu
Kancheepuram District- 603 001.

+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.49058
+1cc to the Government Pleader, S.R.No.50148
+1cc to Mr.K.Bhuvaneswari, Advocate, S.R.No.49886

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VSN II(CO)

RRS(22/07/2019)