

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.03.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 9566 OF 2018

AND

W.M.P. NOS. 11469, 11470 & 16858 OF 2018

The Presidency Club Ltd.
Rep. By its Honorary Secretary
Mr. Eswaran Annamalai
'Fairlawns', 51, Ethiraj Salai
Chennai 600 008. ... Petitioner

- Vs -

1. The Commissioner
Corporation of Chennai
Ripon Buildings
No.1131, EVR Periyar Salai
Park Town, Chennai 600 003.

2. Asst. Revenue Officer - Zone V
Corporation of Chennai
61, Basin Bridge Road
Chennai 600 001.

3. Chennai Metropolitan Water
Supply & Sewerage Board
rep. By its Managing Director
No.1, Pumping Station Road
Chintadripet, Chennai 600 002.

4. The Special Tahsildar (Revenue Recovery)
CMWSSB, Area - V
1, M.C. Road, Anna Poonga
Chennai 600 021.

5. The Senior Accounts Officer
CMWSSB, Area - V
1, M.C. Road, Anna Poonga
Chennai 600 021.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the records pertaining to enhancement of property tax pursuant to impugned order No.1, i.e., Notice No.10, Final Assessment bearing Notice No.10/18-19/56295 and order No.M/05/061/18-19/2341 dated 12.4.2018 issued by the 1st respondent and a consequential enhancement of water and sewerage tax pursuant to impugned order No.2, i.e., Distraint Notice bearing assessment No.05-061-01362-000 dated 23.2.2018 issued by the 4th respondent and to quash both the impugned orders.

(Prayer amended as per order of this Court dated 18/06/2018 made in WMP No.16857/18)

For Petitioner: Mr. B.Deepak Narayanan

For Respondents: Mr. N.Ramesh, AGP for RR-3 to 5
Ms. Karthikaa Ashok for RR-1 & 2

ORDER

In response to the notice issued, Ms.Karthikaa Ashok, learned counsel has entered appearance for respondents 1 and 2 and a counter affidavit has also been filed. In the counter affidavit, in para-9, it is stated that as against the order passed by the 1st respondent, an appeal would lie to the Appellate Tribunal u/s 138 (G) of the Chennai City Municipal Corporation Act, 1919. Without exhausting the appeal remedy, the petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 and, therefore, the writ petition is liable to be dismissed as not maintainable.

2. To this, learned counsel appearing for the petitioner submits that when the order was issued by the 1st respondent, which is impugned in the writ petition, no proper opportunity was afforded to the petitioner before revision and, therefore, there was violation of principles of natural justice and, hence, the petitioner resorted to invoke the writ jurisdiction of this Court directly without exhausting the appellate remedy provided under the statute.

3. Though there is some force in the contention raised by the learned counsel for the petitioner in regard to the violation of principles of natural justice, at the same time, when an appellate remedy is provided under a particular statute, the same being an effective remedy, the same has to be exhausted before approaching this Court under Article 226 of the Constitution of India. Even in case of violation of principles of natural justice, the same objections, as is raised here, could be raised before the Appellate Tribunal and it is needless

to mention that the Appellate Tribunal shall consider the objections also along with other objections to be taken in support of the petitioner's challenge against the order passed by the 1st respondent.

4. Learned counsel for the petitioner requested the Court that when the petitioner moves the Appellate Tribunal, the Appellate Tribunal may be directed to dispose of the appeal within a particular time frame in view of the fact that there has been a huge increase in the property tax payable by the petitioner.

5. Considering the request as made by the learned counsel for the petitioner, the petitioner, if so advised, is granted liberty to file appeal before the Appellate Tribunal within a period of two weeks from the date of receipt of a copy of this order and on such appeal being filed, the Appellate Tribunal shall consider the said appeal and dispose of the same on merits and in accordance with law within a period of six weeks thereafter after affording an opportunity of fair and reasonable hearing to the petitioner before the appeal is disposed of by the Appellate Tribunal. It is further made clear that while filing the appeal, the petitioner shall abide by the conditions as imposed under the Act relating to deposit.

6. This writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

GLN

To

1. The Commissioner
Corporation of Chennai
Ripon Buildings
No.1131, EVR Periyar Salai
Park Town, Chennai 600 003.

WEB COPY

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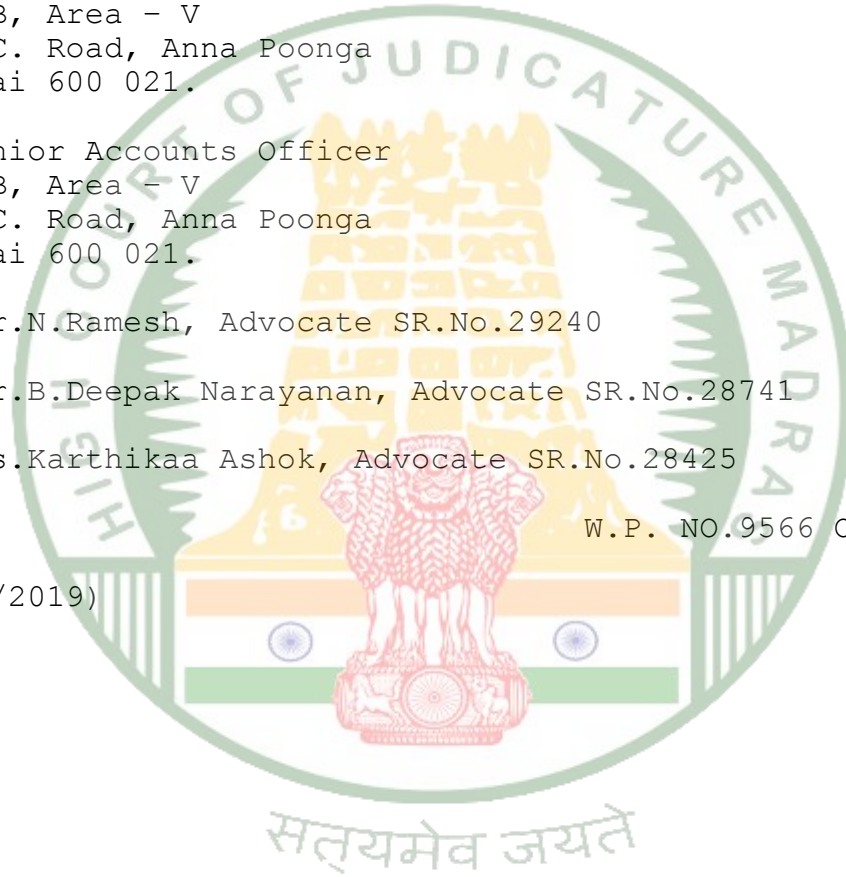
+1cc to Mr.N.Ramesh, Advocate SR.No.29240

+1cc to Mr.B.Deepak Narayanan, Advocate SR.No.28741

+1cc to Ms.Karthikaa Ashok, Advocate SR.No.28425

W.P. NO.9566 OF 2018

KK(CO)
GMY(03/05/2019)



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