IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-06-2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.8863 of 2019
And
W.M.P.Nos.9416 and 9418 of 2019

J.Senthil Kumar ...Petitioner

..Vs..

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.

2.The Assistant Revenue Officer,
Revenue Department,
Zonal Office-X,
Greater Chennai Corporation,
New No.117, Old No.64,
N.S.K.Salai,
Kodambakkam,
Chennai-600 024. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the respondents impugned Webportal demand of Property Tax for the Assessment Periods 1/18-19 and 11/18-19 with respect to the petitioner's Property bearing Property id:-10-136-06462-000 (Old Property id:-08-127-1334-001), falling within the limit of the second respondent and quash the same and consequentially forbear the respondents, their representatives, men, agents or whomsoever claiming under them from any manner demanding an increased rate of Property Tax with respect to the petitioner's Property bearing Property id:-10-136-06462 (Old Property Id:-08-127-1334-001), without following the due process of law.

For Petitioner : Mr.V.Athikesavan for
M/s.McGan Law Firm.

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

ORDER

Mr.V.Athikesavan of M/s.McGan Law Firm for writ petitioner is before this Court. Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation is before this Court on behalf of both the official respondents. To be noted, there are two respondents in this writ petition and both are official respondents.

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

3. Subject matter of this writ petition is enhancement of property tax for a property owned by writ petitioner being immovable property at 16(16), Ramanujam Street, T.Nagar, Chennai-600 017 (hereinafter said 'property' for the sake of brevity, convenience and clarity).

4. Said property was assessed to property tax by Chennai Corporation, half-yearly property tax was Rs.8,923/- upto second half year of 2009-2010, from first half year of 2010-2011, it was enhanced to Rs.33,310/- and the same is being paid without any default is learned counsel for writ petitioner's say.

5. When things stood as above, writ petitioner counsel submits that writ petitioner verified the webportal of the Official website of Chennai Corporation and was shocked to notice that half-yearly property tax for the said property has been shown as Rs.79,945/-.

6. It is the submission of learned counsel for writ petitioner with specificity that no notice has been served regarding proposed enhancement. It is also his emphatic say that no opportunity has been given to writ petitioner for objecting to the proposed enhancement and writ petitioner has no clue about the parameters and determinants that have been applied by Chennai Corporation for making aforesaid enhancement. To be noted, notwithstanding contents of affidavit filed in support of writ petition, learned counsel for writ petitioner abridged his submissions to this aspect of the matter.

7. Faced with the above situation, learned Standing

Counsel for Chennai Corporation submits that a provisional assessment has been made. Learned counsel also submitted that the same has been despatched by ordinary post to writ petitioner, but there is nothing on record before this Court to show that it has been duly served on writ petitioner. In other words, there are no records before this Court for Chennai Corporation to demonstrate that provisional assessment has been served on the writ petitioner.

8. In this backdrop, in the hearing today, learned counsel for writ petitioner, on instructions, submitted that provisional assessment can be served on writ petitioner counsel, subject to opportunity being given to writ petitioner to object to the same with directions to Chennai Corporation to consider objections and pass final assessment.

9. In the light of trajectory the hearing has taken today, Mr.V.Athikesavan, learned counsel for writ petitioner, received provisional assessment order dated 29.9.2018 from learned Standing Counsel for Chennai Corporation.

10. A perusal of provisional assessment order brings to light that Chennai Corporation proposes to enhance property tax for the said property from aforesaid Rs.33,310/- to Rs.79,945/- with effect from first half year of 2018-2019 or in other words with effect from 1.4.2018.

11. Provisional Assessment Order mentions that there will be an appeal to the jurisdictional Regional Deputy Commissioner against the provisional assessment. However, a Hon'ble Single Judge of this Court vide order in WP No.3231 of 2019 dated 4.2.2019, drawing inspiration from an earlier Division Bench judgment in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai, reported in 2009 (2) CTC 465, has held that in a provisional assessment of this nature, the question of appeal will not arise and it has to be objections only.

12. Therefore, notwithstanding the provisional assessment saying that there will be an appeal, what will lie to the jurisdictional Regional Deputy Commissioner and what will be considered by the said authority is objections. In other words, it will not be an appeal.

13. Having been served with the copy of provisional assessment order, writ petitioner undertakes to file objections to the provisional assessment, within a fortnight from the date of receipt of a copy of this order along with a copy of this order to the aforesaid authority.

14. The aforesaid authority shall thereafter, considering all objections that have been raised by writ petitioner, pass final assessment order in accordance with law and also by following the due process of law.

15. The final assessment order so passed, shall be communicated to writ petitioner under Due Acknowledgment, within seven working days from the date of final assessment.

16. Until communication of final assessment to writ petitioner under Due Acknowledgment in the aforesaid manner, there shall be no coercive action qua property tax for the said property against the writ petitioner subject to writ petitioner paying half yearly property tax at the existing rate of Rs.33,310/- without any delay or default in accordance with applicable rules under Chennai City Municipal Corporation Act, 1990.

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

Svn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.

2.The Assistant Revenue Officer,
Revenue Department,
Zonal Office-X,
Greater Chennai Corporation,
New No.117, Old No.64,N.S.K.Salai,
Kodambakkam, Chennai-600 024.

+1cc to Mr.McGan Law Firm, Advocates vide SR.No.50902
+1cc to the T.P.C.Gopalakrishnan, Advocate, Sr.No.50915

WP No.8863 of 2019

Kak(21/08/2019)