IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.12428 of 2019
and
W.M.P.No.12712 of 2019

W M M Uvais ..Petitioner

vs.

1.The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai-600 003.

2.The Regional Deputy Commissioner
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

3.Revenue Officer,
Greater Chennai Corporation,
Rippon Building
Chennai 600 003. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent to dispose the appeal dated 15.02.2019 filed by the petitioner within a time frame fixed by this Court and consequently forbear the respondents from in anyway collecting, demanding, realising or insisting upon payment of the amount demanded vide Demand Notice dated 04.02.2019 in Bill NO.05-059-02711-000 (old bill no.03-049-0959-000) till such time the appeal is disposed off by the 2nd respondent.

For Petitioner : Mr.Athithya Varman
for Mr.P.Wilson Associates

For Respondents : Ms.T.Padmashalini for
Mr.T.C.Gopalakrishnan
Standing counsel

ORDER

Mr.Athithya Varman, of M/s.P.Wilson Associates (law firm) on behalf of sole writ petitioner and Ms.T.Padmashalini representing Mr.T.C.Gopalakrishnan, learned Standing counsel for Chennai Corporation on behalf of three respondents, are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of. Entire writ petition turns on a very narrow compass. Writ petition pertains to enhancement of property tax under 'Chennai City Municipal Corporation Act, 1919' (hereinafter referred as 'CCMC Act' for brevity).

3. Immovable property which forms subject matter of the instant writ petition is No.84(191/194), NSC Bose Road, Chennai 600 079 (hereinafter 'said property' for the sake of brevity, clarity and convenience).

4. Chennai Corporation, issued a notice dated 21.01.2018 captioned 'Notice No.1:Property Tax General Revision-2018-19' (hereinafter 'said notice' for the sake of clarity).

5. Vide said notice, Chennai Corporation proposed to enhance half yearly property tax for the said property from Rs.4,59,228/- to Rs.13,26,700/- with effect from first half year of 2018-19 i.e., I/18-19. In other words it is with effect from 01.04.2018.

6. Vide said notice, Chennai Corporation has mentioned that an appeal will lie to the jurisdictional Regional Deputy Commissioner within 15 days of receipt of notice and the writ petitioner also has sent objections dated 15.02.2019.

7. Before proceeding further, it is to be noted that a Hon'ble Single Judge of this Court in and by order dated 04.02.2019 made in W.P.No.3231 of 2019 drawing inspiration from a Division Bench Judgment of this Court in Sanjay Gupta Vs. The Commissioner, Corporation of Chennai and another reported in 2009 (2) CTC 465, held that notices of this nature are necessarily provisional assessments. Such provisional assessments are those for which objections have to be sent and respondent Chennai Corporation has to pass a final Assessment order after taking into objections before making any demand. Therefore, though said notice refers to an 'appeal' what would lie against the said notice are objections. In the instant case writ petitioner has sent in objections dated 15.02.2019.

8. Therefore 15.02.2019, are objections to said notice.

9. To be noted, prayer in the instant writ petition itself is to Mandamus Chennai Corporation to consider the 15.02.2019 objections which has been described as an appeal. In the light of the aforesaid order, drawing inspiration from Sanjay Gupta case, decided by a Hon'ble Division Bench, 15.02.2019 learned Single Judge vide aforesaid order held that what would lie qua said order is obviously objections and not an appeal.

10. The jurisdictional Regional Deputy Commissioner, has to consider all the objections and pass a final assessment order.

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

A) The Jurisdictional Regional Deputy Commissioner (2nd respondent in the instant writ petition) shall consider all the objections raised by the writ petitioner vide objections dated 15.02.2019 and pass a final assessment order within four (4) weeks from the date of receipt of a copy of this order in a manner known to law.

B) The final assessment order so passed shall be communicated by 2nd respondent to the writ petitioner under due acknowledgment within 7 working days from the date of the final assessment order.

C) There shall be no coercive action against the writ petitioner till the final assessment order is made and communicated to writ petitioner, subject to writ petitioner paying half yearly property tax at the existing rate of Rs.4,59,228/.

D) Though obvious, on final assessment order being passed, it will be open to the writ petitioner to assail the same in a manner known to law, if writ petitioner is not satisfied with the final assessment.

12. Accordingly, this writ petition stands disposed of with the above directions. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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

2.The Regional Deputy Commissioner
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

3.Revenue Officer,
Greater Chennai Corporation,
Rippon Building
Chennai 600 003.

+1 CC to M/s.P.Wilson Associates sr 55273.
+2 CC to Mr.T.C.Gopalakrishnan, Advocate sr 55565.

W.P.No.12428 of 2019

CP(CO)
SP(05/08/2019)