IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2019

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.12835 of 2019
and
W.M.P.No.13042 of 2019

G.K.Shanmugam ...Petitioner

Vs

The Commissioner,
Vellore Municipality
Vellore District ....Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records in pursuant to the demand notice issued by the respondent vide letter dated 20.11.2018 to the petitioner and quash the same.

For Petitioner : Ms.A.Anusuya
For Respondent : Ms.P.Shanthi
Standing counsel

O R D E R

Ms.A.Anusuya, learned counsel on record for the writ petitioner and Ms.P.Shanthi, learned Standing counsel for the sole respondent are before this Court.

2. With consent of counsel on both sides, main writ petition is taken up, heard out and is being disposed of. The entire writ petition turns on a very narrow compass.

3. Writ petitioner is the owner of the property at Door.No.556, Vivekanandar Street, Kangeyanallur, Vellore-632 006 (hereinafter 'said property' for the sake of brevity, clarity and convenience).

4. Said property is being used as Residential premises, is writ petitioner counsel's say.

5. Learned counsel for writ petitioner, adverting to the affidavit filed in support of the writ petition, submitted without any disputation or disagreement that said property was assessed to Property Tax by the Vellore Municipality and the property tax is being paid without any default. It is the case of the writ petitioner that property tax is being paid for all

assessment years without any default.

6. Under the aforesaid circumstances, the writ petitioner was visited with a Demand Notice dated 20.11.2018. Vide this Demand Notice, writ petitioner has been called upon to pay a sum of Rs.12,112/- (Rupees Twelve Thousand One Hundred and Twelve only) towards arrears of property tax for the assessment years 2017-2018 and 2018-2019 within 15 days of receipt of notice. This notice shall herein be referred as 'impugned notice' for brevity.

7. Vide impugned notice, writ petitioner was put on notice that if the aforesaid sum of money, which according to the respondent is due towards property tax arrears of the writ petitioner qua said property, is not paid within 15 days, legal action will be taken under Rules 30 to 34 of Schedule IV of Tamil Nadu District Municipalities Act, 1920.

8. From a reading of the impugned notice, it also comes to light that the purported arrears of property tax is for assessment years 2017-2018 and 2018-19.

9. Adverting to the affidavit filed in support of this writ petition, learned counsel for writ petitioner submits that property tax as per the existing rate has been duly paid for the assessment year 2018-2019 and receipt for the same is annexed in the typed set of papers and this is not disputed.

10. It is the specific case of the writ petitioner that the writ petitioner was not put on notice about any enhancement of property tax and he was suddenly visited with the impugned notice. Notwithstanding this position, without prejudice to the rights and contentions of writ petitioner, writ petitioner is paying Rs.232/- (Rupees Two Hundred and Thirty Two only) for every half year is learned counsel's say.

11. In the aforesaid circumstances, learned Counsel for the respondent submits that the Act that is applicable to the instant case is 'Vellore City Municipal Corporation Act, 2008 (Tamil Nadu Act 26 of 2008)', hereinafter 'said Act' for brevity and vide Section 8 of the said Act, the provisions of Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) have been made applicable to the Vellore Municipality.

12. Learned Counsel drew the attention of this Court to Section 118 of the 'Coimbatore City Municipal Corporation Act, 1981' (hereinafter 'Coimbatore Act 1981' for brevity) and submitted that before imposing tax for first time or increasing the rate of existing tax, a publication has to be made in a Tamil Newspaper.

13. Learned Counsel submitted that though it is the specific stand of the respondent that said publication has been made, the respondent is not averse to issuing a notice individually to the writ petitioner regarding the proposed enhancement.

14. To be noted, this therefore is a consent order, in the light of the aforesaid stated position that the respondent Municipality which has been represented before this Court by learned Counsel on instructions. On instructions, it is submitted on behalf of the respondent Municipality that they would give a notice to the petitioner giving details of the proposed assessment together with parameters, determinants and mode of computation for the proposed enhancement, which will be a provisional assessment, call for objections from writ petitioner, thereafter pass a final assessment order after taking into account the objections of writ petitioner and after giving an opportunity of personal hearing to the writ petitioner.

15. Therefore, it follows as a natural sequitur that the impugned notice is to be set aside, as there cannot be any demand of property tax at the enhanced rate until final assessment order is passed.

16. In the light of the narrative supra, by consent of both sides, the following order is passed:

(a) Impugned order bearing New Assessment No. 035/014/01118 dated 20.11.2018 is set aside.

(b) The respondent shall send a notice to the writ petitioner within a fortnight from the date of receipt of this order along with details of proposed enhancement of the property tax for the said property together with parameters, determinants, mode of computation which are used to arrive at the proposed enhancement. This notice will call for objections from the writ petitioner and shall be bound on the writ petitioner under due acknowledgment.

(c) Writ petitioner shall send their objections to the aforesaid proposed enhancement / provisional assessment within a fortnight thereafter i.e., from date of receipt of aforesaid notice.

(d) On receipt of the objections from writ petitioner, respondent Municipality shall consider all the objections of the writ petitioner, give an opportunity of personal hearing to the writ petitioner and then pass a final assessment order in accordance with law as expeditiously as possible, in any event within eight (8) weeks from the date of receipt of the objections from the writ petitioner.

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

(f) Until final assessment order is made and communicated to writ petitioner in aforesaid manner, there will be no coercive action against the writ petitioner subject to the condition that the writ petitioner continues to pay property tax at the existing rate.

(g) Though obvious, it is made clear that it is open to the writ petitioner to assail aforesaid final assessment order in a manner known to law (if writ petitioner is not satisfied with final assessment order). If writ petitioner chooses to assail the final assessment order, this order will not impede such legal proceedings.

17.Accordingly, this writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

The Commissioner,
Vellore Municipality
Vellore District

+1 CC to M/s. Anusuya, Advocate sr 54625.

W.P.No.12835 of 2019
and
W.M.P.No.13042 of 2019

MG(CO)
SP(24/07/2019)