IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.17890 of 2019

G.Shankari .. Petitioner

vs.

1.The Commissioner
Corporation of Chennai
Chennai.

2.The Assistant Revenue Officer
Zone-XII, Corporation of Chennai
Alandur, Chennai - 16.

3.The Zonal Officer, Chennai - 600 123.
Zone-XII, Corporation of Chennai
Alandur, Chennai - 16. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned demand notice in ...nil... dated 08.02.2019 passed by the 2nd respondent and to quash the same and further direct the respondents to fix the property tax in accordance with law and grant such other further relief as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.S.Sivakumar

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

ORDER

Mr.S.Sivakumar, learned counsel on record for writ petitioner is before this Court. Ms.T.Padma Shalini, learned counsel representing Mr.T.C.Gopalakrishnan, learned Standing counsel for Chennai Corporation, accepts notice on behalf of all the three 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 instant writ petition is enhancement of property tax under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity).

4. Writ petitioner's property is at 'No.4, Karpaga Vinayagar Koil Street, Alandur, Chennai-600 016' (hereinafter 'said property' for brevity). Learned counsel for writ petitioner submits that said property is writ petitioner's residence.

5. It is submitted that said property has been assessed to property tax by Chennai Corporation, vide Bill No.12-160-01273-000 and the half-yearly property tax was fixed at Rs.1,283/- (Rupees One Thousand Two Hundred and Eighty Three only).

6. It is the case of the writ petitioner that aforesaid half-yearly property tax of said property is being paid regularly by writ petitioner.

7. When things stood as above, writ petitioner was visited with notice dated 08.02.2019 under Section 104 of CCMC Act (hereinafter 'impugned notice' for the sake of brevity). To be noted, impugned notice is addressed to one Mr.Govindarajulu, this Court is informed that he is writ petitioner's father and he is no more. This Court is informed that writ petitioner is now owner of said property. It may not be necessary to go into these aspects of the matter, considering the scope of instant writ petition.

8. Vide the impugned notice, a demand has been raised with regard to property tax for the said property and the demand is for Rs.70,216/- (Rupees Seventy Thousand Two Hundred and Sixteen only)

9. Learned counsel for writ petitioner submits that from the impugned notice, it comes to light that the respondent Chennai Corporation is now demanding half-yearly property tax for said property at the rate of Rs.33,825/- (Rupees Thirty Three Thousand Eight Hundred and Twenty Five only) for said property.

10. It is specifically submitted by learned counsel for writ petitioner that Chennai Corporation is suddenly straight away demanding property tax at the rate of Rs.33,825/- (Rupees Thirty Three Thousand Eight Hundred and Twenty Five only) for said property, without any prior notice and without giving any opportunity to writ petitioner to object to enhancement if any. It is also submitted that the enhancement is exorbitant, considering the size and nature of residential property.

11. Both sides were heard and it comes to light that there is no material before this Court to demonstrate that a provisional assessment was made and that writ petitioner was given an opportunity to object to the same.

12. This Court, vide order 04.02.2019 in W.P.No.3231 of 2019 drawing inspiration from a Division Bench of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465, held that in cases of this nature, it is necessary that a provisional assessment should be made, the assesse should be given an opportunity to object to the same and thereafter final assessment should be made after taking into account all the objections. This Court has also held that a demand can be raised only after final assessment is made in the aforesaid manner.

13. As there is no material before this Court to demonstrate that this procedure has followed, the following order is passed:

a) Impugned demand notice is set aside.

b) Chennai Corporation shall make a provisional assessment and serve the same under due acknowledgement to writ petitioner within a fortnight from the date of receipt of a copy of this order.

c) In this provisional assessment order, the proposed enhancement and the basis for the enhancement including the parameters and determinants shall be set out or the same shall be made available in the official website.

d) In this provisional assessment order, writ petitioner shall be called upon to file objections within a fortnight therefrom.

e) On being served with provisional assessment order, writ petitioner shall file objections along with all supporting documents within a fortnight therefrom.

f) Thereafter, Chennai Corporation shall consider all the objections and pass a final assessment order in accordance with law within eight weeks from the date of objections.

g) Final Assessment Order so passed shall be served on writ petitioner under due acknowledgement within seven working days from the date of Final Assessment Order.

h) There shall be no distrain proceedings or coercive action in any form against writ petitioner qua said property for property tax until Final Assessment Order is made and duly served on writ petitioner in the aforesaid manner, subject to the condition that writ petitioner continues to pay property tax at the rate of Rs.1,283/- (Rupees One Thousand Two Hundred and Eighty Three only) per half year for said property without any delay or default.

i) Though obvious, it is made clear that it is open to writ petitioner to assail the Final assessment Order in a manner known to law, if writ petitioner is not satisfied with the Final Assessment Order.

14. Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

vsm

To

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+1cc to Mr.S.Sivakumar, Advocate, S.R.No. 54114
+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No. 53225

W.P.No.17890 of 2019

GP(CO)
GN(16/08/2019)