IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.07.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.22081 of 2019
and W.M.P Nos.21340 and 21342 of 2019

P.Pandian ... Petitioner

Vs.

The Commissioner
Vellore City Municipal Corporation
Vellore, Vellore District ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the entire records pending on the file of the respondent in pursuant of the demand notice bearing tax No.035/022/01405 dated 23.03.2019 issued by the respondent enhancing the property tax for the year 2017-2018 and 2018-2019 by enhancing nearly 11 times instead of 100% for the marriage hall situate at No.C-7/C, CMC Colony, 1st Street, Sathuvacheri, Vellore - 632 009 and quash the same.

For Petitioner : Mr.M,Daranath
For Respondents : Ms.P.Shanthi
Standing Counsel

ORDER

Mr.M,Daranath, learned counsel representing the counsel on record for writ petitioner is before this Court. Ms.P.Shanthi, learned Standing Counsel for Vellore City Municipal Corporation accepts notice on behalf of lone official respondent.

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

3.Subject matter of instant writ petition is enhancement of property tax for petitioner's property at ' C1, C2, C3 Part 1, South Service Road, Sathuvacheri, Vellore - 632 009 with Old Assessment No.035/2209221 and present Assessment No.035/022/01405' (hereinafter 'said property' for brevity for the sake of convenience and clarity).

4.Notwithstanding several averments in the affidavit filed in support of the writ petition and notwithstanding several grounds/contentions raised in the affidavit filed in support of the writ petition, learned counsel for writ petitioner, in the hearing, abridged and restricted the submission to one aspect of the matter or in other words, writ petition at the hearing stood predicted on one point. That lone point is that the respondent has directly sent a demand notice being notice dated 23.03.2019 (hereinafter 'impugned demand notice' ) demanding property tax for the said property for the financial year 2018-19 at the rate of Rs.1,20,464/- together with SUC of Rs.600/-, totalling to Rs.1,21,064/-. Learned counsel for writ petitioner submits that said property was assessed to property tax and the property tax stood at Rs.11,012/- per annum. It is the specific submission of learned counsel for writ petitioner that straightaway enhanced property tax has been demanded without any publication and without calling for returns.

5. In response, there is nothing on behalf of sole respondent to demonstrate that any publicity was given requiring the writ petitioner and similarly placed persons to file returns.

6.This takes us to the applicable statute.

7.There is no disputation or disagreement before this Court that the law applicable to instant writ petition is 'Vellore City Municipal Corporation Act, 2008 (Tamil Nadu Act 26 of 2008)', which shall hereinafter be referred to as 'Vellore Corporation Act'. Section 8 of Vellore Corporation Act is of relevance and the same reads as follows:

> '8. Application of the provisions of the 1981 Act to the Corporation.- (1) Save as otherwise expressly provided herein, all the provisions of the 1981 Act, including the provisions relating to the levy and collection of any tax or fee are hereby extended to and shall apply, mutatis mutandis to the corporation and the 1981 Act shall, in relation to the corporation, be read and construed as if the provisions of this Act had formed part of the 1981 Act.
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> (2) For the purpose of facilitating the application of the provisions of the 1981 Act to the corporation, the Government may, by notification, make such adaptations and modifications of the 1981 Act and the rules and bye-laws made thereunder, whether by way of repealing, amending or suspending any provision thereof, as may be necessary or expedient and thereupon, the 1981 Act and the rules made thereunder, shall apply to the corporation subject to the adaptations and modifications so made.
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> (3) Notwithstanding that no provision or insufficient provision has been made under sub-section (2) for the

adaptation of the provisions of the 1981 Act, or the rules and bye-laws made thereunder, any Court, Tribunal or authority required or empowered to enforce these provisions may, for the purpose of facilitating their application to the corporation, construe these provisions in such manner, without affecting the substance, as may be necessary or proper having regard to the matter before the Court, Tribunal or authority.

(4) In the 1981 Act as extended and applied to the city of Vellore,"

(a) any reference to the city of Coimbatore and Coimbatore Munici pality, shall by reason of this Act, be construed as a reference to the city of Vellore and Vellore Municipality, respectively; and

(b) any reference to the Coimbatore Corporation, Corporation of Coimbatore and Municipal Corporation of Coimbatore, shall by reason of this Act, be construed as a reference to the Vellore Corporation, Corporation of Vellore and Municipal Corporation of Vellore, respectively.

8. A perusal of Section 8 of Vellore Corporation Act reveals that 'Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act, 25 of 1981)', hereinafter 'Coimbatore Corporation Act' for brevity is made applicable mutatis mutandis to Vellore Corporation including provisions relating to levy/collection of any tax or fee. This takes us to Coimbatore Corporation Act. Most relevant provisions are Section 118 of Coimbatore Corporation Act and Rules 4 and 5 of Taxation Rules forming part of Coimbatore Corporation Act being Schedule II of Coimbatore Corporation Act. Said Section 118, Rules 4 and 5 of aforesaid Taxation Rules read as follows:

'Section 118. Powers of control of government.- Any resolution of the council determining to levy a tax shall specify the rate at which and the date from which any such tax shall be levied'

'Rule 4. The Commissioner may, by giving publicity in the local newspapers and otherwise require the owner or the occupier of, any land or building, or a portion thereof to file a return within a period not exceeding one month from the date notified in this behalf by the Commissioner, containing the following particulars with regard to each assessable term, namely._

(i) the name of the division and the street in which it is situated and the door number;

(II) description of the assessable item like number of storeys, plinth area in each storey and the extent of vacant land;

(iii) the name of the owner;
(iv) the name of the occupier;
(v) the year in which the assessable item was last assessed and the amount of annual value fixed by the Commissioner;
(vi) the amount of tax now being paid per half-year;
(vii) whether the assessable item is used for residential or non-residential purpose;
(viii) whether the assessable item is wholly rented or partly occupied by the owner and partly rented; and
(ix) the amount received as rent or lease amount per year'

'Rule 5. If any person fails to file a return within the notified time, the Commissioner may authorise any person not below the rank of a Bill Collector to enter upon and make an inspection of the assessable item and prepare the return. '

9. A perusal of aforesaid provisions brings to light that it is necessary that the respondent Corporation requires the owner or the occupier of any land or building, or a portion thereof to file a return within a specified time and the particulars which the returns should contain have also been adumbrated in Rule 4 and if any person fails to file a return, thereafter an Officer not below the rank of Bill Collector shall enter upon the said property and assess the same. If the returns are filed, Commissioner of Vellore Corporation shall assess property tax in accordance with the parameters adumbrated in Rule 6. In the instant case, as no publication, as envisaged by Rule 4, has been given, resorting to Rule 5 does not arise.

10. In the aforesaid undisputed backdrop, this Court passes the following order:

a) Writ petitioner shall file returns, under due acknowledgement giving all the particulars adumbrated in Rule 4 of Taxation Rules being Part I of Schedule II to Coimbatore Corporation Act as made applicable to Vellore Corporation by Section 8 of the Vellore Corporation Act within thirty days from the date of receipt of a copy of this order.

b) If the writ petitioner does not file returns in the aforesaid manner within the aforesaid time frame, it is open to the Commissioner of Vellore Corporation to make assessment in accordance with Rule 5 of aforesaid Taxation Rules.

c) If the returns are filed in the aforesaid manner within the aforesaid time, Commissioner of Vellore Corporation shall assess property tax for said property in accordance with Rule 6 of Coimbatore Corporation Act and other guidelines/circulars, which are operating in this regard.

d) In either case, assessment, in accordance with Rule 5 or 6, so made shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of such assessment.

e) If the writ petitioner is not satisfied with the assessment, it is open to the writ petitioner to assail the assessment in accordance with remedies available in law. If the writ petitioner chooses to do so, this order will not impede such legal proceedings.

d) There shall be no coercive action or distraint proceedings against the writ petitioner or said property till the assessment is made by the Commissioner i.e., Respondent herein in the aforesaid manner and till the same is served on the writ petitioner under due acknowledgment within aforementioned time frame subject to the condition that the petitioner pays property tax for said property at the existing rate of Rs.11,012/- (Rupees Eleven Thousand Twelve Only) per annum without any default.

This writ petition is disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commissioner
Vellore City Municipal Corporation
Vellore, Vellore District

+1cc to Mr.S.Siva Shanmugam, Advocate Sr.No.64746

akm/30.08.19/5p-3c/

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