IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.20757 of 2019
and W.M.P.No.19923 of 2019

S.M.H.Afroze @ S.M.H.Aminath Afroze .. Petitioner

Vs.

1.The Commissioner
Corporation of Chennai
Rippon Buildings
E.V.R.Periyar Salai
Chennai.

2.The Regional Deputy Commissioner
Greater Chennai Corporation
Ripon Building
Chennai – 600 003.

3.The Assessor
Revenue Department
Zonal Office-VIII, Corporation of Chennai
No.36B-2nd Cross Stree, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

4.The Assistant Revenue Officer
Revenue Department
Zonal Office-VIII-Corporation of Chennai
No.36B-2nd Cross Stree, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records of the 4th respondent in Demand Notice No.1, dated 08.10.2018 bearing No.E/1/18-19/543370 and quash the same and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

For Petitioner : Mr.K.M.Aasim Shehzad for
M/s.BFS Legal

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

ORDER

Mr.K.M.Aasim Shehzad, learned counsel of M/s.BFS Legal [Law Firm] is before this Court on behalf of writ petitioner. Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation accepts notice on behalf of all the four respondents.

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 writ petitioner's property under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity).

4. Immovable property, which forms subject matter of instant writ petition is 'No.27(14), Club Road, Srinivasa Nagar, Chetpet, Chennai-600 031', which shall hereinafter be referred to as 'said property' for the sake of brevity, convenience and clarity.

5. It is the case of the writ petitioner that writ petitioner was visited with a notice dated 08.10.2018 proposing to enhance half yearly property tax for said property from Rs.772/- (Rupees Seven Hundred and Seventy Two only) to Rs.2,560/- (Rupees Two Thousand Five Hundred and Sixty only).

6. Learned counsel for writ petitioner submits that the existing half yearly tax of Rs.772/- (Rupees Seven Hundred and Seventy Two only) is being paid regularly.

7. Learned Standing Counsel for Chennai Corporation, who accepted notice on behalf of respondents points out that notice was served on the writ petitioner in October 2018, whereas instant writ petition has been filed in this Court only in July 2019.

8. Faced with the above situation, learned counsel for writ petitioner submits that on receipt of the impugned notice finding that the proposed enhancement is more than 100%, writ petitioner was bewildered perplexed and baffled that writ petitioner could not respond or react immediately.

9. Saying so learned counsel for writ petitioner submitted that it took a while for writ petitioner to come to terms with the proposed enhancement, thereafter writ petitioner gathered available records and ultimately filed the instant writ petition. Though this has not been articulated in the affidavit filed in support of the instant writ petition, considering the nature of this matter, considering the facts and circumstances of the case and considering the order, which this Court proposes to pass as also orders passed in similar matters, this Court

considers it appropriate to not to delve into this aspect further in this case.

10. Be that as it may, with regard to the impugned notice, it refers to an appeal to the Regional Deputy Commissioner, Greater Chennai Corporation within 15 days i.e., second respondent.

11. Learned Standing Counsel for Chennai Corporation submits that the jurisdictional Regional Deputy Commissioner qua said property is Regional Deputy Commissioner (Central) at Pulla Avenue, Shenoy Nagar, Chennai - 600 040. (hereinafter 'jurisdictional Regional Deputy Commissioner' for clarity).

12. This Court vide order dated 04.02.2019 in W.P.No.3231 of 2019 has held that in cases of this nature what will lie against orders akin to impugned order is not an appeal to the jurisdictional Regional Deputy Commissioner, but it will be objections by the assessee, it should be considered and final assessment order should be passed before any demand is made. To be noted, this order of Single Judge of this Court was made by drawing inspiration from Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465. To be noted, Sanjai Gupta principle is to the effect that before a demand for property tax is made, final assessment is imperative after taking into consideration the objections of the assessee.

13. In this view of the matter, the following order is passed:

a) Impugned notice bearing Reference No.E/1/18-19/543370 is set aside.

b) Writ petitioner shall send objections under due acknowledgement to impugned notice within a fortnight from the date of receipt of a copy of this order to the jurisdictional Regional Deputy Commissioner i.e., Regional Deputy Commissioner (Central) at Pulla Avenue, Shenoy Nagar, Chennai - 600 040.

c) While sending objections, it is open to the writ petitioner to cull out calculation method, which is available in the official website i.e., http://www.chennaicorporation.gov.in/online-civic-services/indez.htm and also raise all other grounds that are available in law including the grounds urged in the instant writ petition.

d) On receipt of objections within the

aforesaid time frame, the jurisdictional Regional Deputy Commissioner shall embark upon the exercise of considering all objections and passing final assessment order in accordance with law and in a manner known to law.

e) After passing final assessment order in the aforesaid manner, the same shall be communicated to the writ petitioner under due acknowledgement within 7 working days from the date of final assessment order. Though obvious, it is open to the writ petitioner to assail the final assessment order in a manner known to law, if the writ petitioner is not satisfied with the final assessment and if the writ petitioner chooses to do so, this order will not impede such a legal course.

f) In the light of the aforesaid exercise, there shall be no coercive action or distraint proceedings of any other nature pertaining to property tax qua said property against the writ petitioner/said property subject to the condition that writ petitioner continues to pay half yearly property tax at the existing rate of Rs.772/- (Rupees Seven Hundred and Seventy Two only).

Writ petition is disposed of with the aforesaid directions. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Commissioner
Corporation of Chennai
Rippon Buildings
E.V.R.Periyar Salai
Chennai.

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

3.The Assessor
Revenue Department
Zonal Office-VIII, Corporation of Chennai
No.36B-2nd Cross Stree, Pulla Avenue,
Shenoy Nagar, Chennai - 600 030.

4.The Assistant Revenue Officer
Revenue Department
Zonal Office-VIII-Corporation of Chennai
No.36B-2nd Cross Stree, Pulla Avenue,
Shenoy Nagar, Chennai - 600 030.

Copy To

The Regional Deputy Commissioner
(Central) at Pulla Avenue,
Shenoy Nagar, Chennai 600 040.

+1cc to Mr.BFS Legal, Advocate, S.R.No. 59784
+1cc to Mr.T.C.Gopala Krishnan, Advocate, S.R.No. 59860

W.P.No.20757 of 2019 and
W.M.P.No.19923 of 2019

NR(CO)
GN(01/08/2019)