BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.6651 of 2019 and
W.M.P.(MD)Nos.5311 & 5312 of 2019

1. S.S.Kamatchi Nathan
2. Kalavathi ... Petitioners

Vs.

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Fort St. George, Chennai.

2.The Commissioner of Town Panchayats,
Kuralagam, Chennai - 600 108.

3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti, Madurai District. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 20.02.2019 passed by the third respondent enhancing the property tax Assessment No.3396 from Rs.5,124/- to Rs.12,760/- and for property tax Assessment No.3397 from Rs.20,732 to Rs.51,832/- and quash the same and consequentially to restore the water supply in Water Tax Assessment Nos.372 and 417.

For Petitioners : Mr.J.Barathan,
for M/s.T.R.Jeyapalam.

For Respondents : Mr.M.Rajarajan,
Government Advocate.

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O R D E R

The petitioners put up the construction in question in February 2006. The first property tax assessment was made in October 2007. The building in Door No.11-1-12 was levied with Rs.5,124/- in assessment No.3396, while the building in door No.11-1-11 was levied with Rs.20,732/- for assessment No.3397. There was enhancement of the property tax to Rs.12,760/- and Rs.51,832/- respectively in the year 2008 and coercive steps were taken vide attachment warrant dated 23.03.2009. The petitioners were not put on notice earlier. The enforcement measures taken by the third respondent Panchayat were put to challenge in Writ proceedings. As the petitioners were advised that there cannot be a challenge to the consequential action alone, the petitioners have filed this Writ petition challenging the enhancement. In the meanwhile, water supply to both the properties was disconnected on the ground that the petitioners are in tax arrears.

2. The stand of the respondents is that there is no reason for enhancement and there is no need to put the petitioners on notice also. This was because the Panchayat only carried out a general revision covering all the buildings situated within the limits of the third respondent Panchayat. A detailed counter affidavit has been filed and the respondents placed reliance on G.O.Ms.No.150 Municipal Administration and Water Supply Department dated 12.11.2007 followed by the clarificatory letter dated 12.02.2018. The respondents also referred to G.O.Ms.No.110 Municipal Administration and Water Supply Department dated 23.06.2008 in which it has been stated that the enhancement of property tax will be up to 25% for residential houses, 100% for industrial buildings and 150% for commercial buildings. It was further stated that the rate of revision can be determined by the concerned municipal council itself depending on its local considerations. Based on the said G.O, the third respondent passed resolution dated 30.06.2008 effecting revision in the light of the norms laid down in G.O.Ms.No.110 Municipal Administration and Water Supply Department dated 23.06.2008. The third respondent would categorically assert that the petitioner herein was very much served the demand notice and he is conveniently taking the stand that he did not receive any revised demand notice. According to the learned Government Advocate, the petitioners are paying the property tax only the pre revised property tax and that they are in huge arrears. He would submit that there is no infirmity in the impugned enhancement.

3. I am in substantial agreement with the stand taken by the learned counsel appearing for the Writ petitioners. A mere reading of G.O.Ms.No.150 Municipal Administration and Water Supply Department dated 12.11.2007 and G.O.Ms. No.110 Municipal Administration and Water Supply Department dated 23.06.2008 would indicate that a quinquennial general revision of property tax in all the local bodies was due even on 01.10.2003. But it was not taken up. Therefore the Government decided that there shall be a general revision of property tax with effect form 01.04.2008. Necessary guidelines were also issued. But in the very nature of things, such a general revision cannot be made in respect of a building that was only put up recently. As the expression “quinquennial general revision” would indicate, the property tax is to be revised once in five years. Therefore, a quinquennial general revision cannot be made on a building that was constructed within five years before the date of revision. In this case, the petitioners' buildings were put up two years prior to the revision that came into effect from

01.04.2008. It is not in dispute that the buildings were completed only in February 2006. The buildings were assessed to property tax only in October 2007. Hence, I am of the view that the impugned demand will have to be set aside. The Writ petition has to be necessarily allowed.

4. The third respondent is directed to restore the water supply to the said buildings. The matter cannot however rest there. This Court has chosen to interfere in favour of the Writ petitioner only because the constructions were put up in February 2006 while the quinquennial general revision was made with effect from 01.04.2008. Therefore, the petitioners' building will have to be subject to a special revision on the completion of the five years. The petitioner has stated that the first property tax assessment was made in October 2007. Therefore, there has to be a special revision made in respect of the petitioners' buildings on the expiry of five years from the date of such assessment. In other words, the first assessment made in favour of the Writ petitioner will last only for five years and thereafter which it has to be revised. The petitioner, of course, will have to join the main-stream after the special revision is made for the Writ petitioner. The special revision will be commencing from the date on the expiry of five years period. It would be for the period upto the next quinquennial general revision.

5. This Writ petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

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2.The Commissioner of Town Panchayats,
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3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti, Madurai District.

+1 CC to M/s.T.R.JEYAPALAM, Advocate in SR-60951
+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.61000

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(1/2)

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