BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.07.2019
CORAM
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.5563 of 2017
and W.M.P.(MD)No.4446 of 2017

1.J.K.Godhawari
2.J.N.Kuppusamy ... Petitioners

Vs.

1. The Madurai City Municipal Corporation,
   Rep. By its Commissioner,
   Tallakulam, Madurai - 625 002.

2. The Assistant Commissioner,
   The Madurai City Municipal Corporation,
   Zone - 3, Madurai. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned attachment warrant notice dated 08.12.2016 issued by the first respondent for the assessment number 110781 standing in the joint names of the petitioners and quash the same and consequently forbearing the respondents from demanding the enhanced property tax as per the impugned notice.

For Petitioners : Mr.T.R.Jeyapalam
For Respondents : Mr.J.Gunaseelan Muthiah
Standing Counsel

ORDER

The petitioners are joint owners of the property in Plot No.39, Survey No.15/5, situated at Villapuram Village, Madurai District admeasuring 1,216 square feet. There are two property tax assessments in regard to the property in question, that, according to the petitioners, comprise of two halls and one room. The property tax assessment numbers are 110781 and 407576. The petitioners were remitting a sum of Rs.288/-, till 2007-08 when the amount of property tax stood enhanced in the second half year to Rs.461/-. The petitioners state that the aforesaid amount of Rs.461/- is being paid regularly till date.

2.While this is so, the petitioners have received the impugned attachment notice dated 08.12.2016 calling upon the petitioners to remit alleged arrears of property tax from the period 2010-11 till 2016-17 of an amount of Rs.2,05,919/-. According to the petitioners, no notice has been issued prior to issuance of the impugned demand and no assessments have been framed.

3.The counter filed by the first respondent refers to an inspection conducted in the said properties, pursuant to which, the measurements of the building were taken as a total of 1997 square feet. According to the petitioner, however, no notice was issued even prior to such inspection and evidently no inspection could have been conducted without prior notice intimating the owners / occupier of such proposed visit. The first respondent also concedes to the position that no show-cause notice or assessment has been made while assessing the property tax in regard to the property in question.

4.In the absence of the same, the impugned demand is clearly bad in law and is quashed. The respondents are directed to initiate proceedings in accordance with law and complete the proceedings for assessment of property tax at the prevailing rates. Such exercise shall be initiated by issuing notice to the petitioners within a period of two weeks from date of receipt of a copy of this order. Orders of assessment shall be passed, after hearing the petitioners, within a period of four weeks thereafter, in accordance with law.

5.This Writ Petition is disposed in the aforesaid directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Madurai City Municipal Corporation,
Rep. By its Commissioner,
Tallakulam, Madurai - 625 002.

2.The Assistant Commissioner,
The Madurai City Municipal Corporation,
Zone - 3, Madurai.

+1 CC to Mr.T.R.JEYAPALAM, Advocate (SR-75077[F] dated 12/07/2019)
+1 CC to Mr.J.GUNASEELANMUTHIAH, Advocate (SR-75297[F] dated 15/07/2019)

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ps
MK (16.09.2019) 2P 5C