BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.22142 of 2016
and
W.M.P.(MD)Nos.15855 & 15856 of 2016

R.Kandasamy ... Petitioner

Vs.

1.Madurai Corporation,
Rep.by its Commissioner,
Madurai-20.

2.The Assistant Commissioner,
Zone No.4, Madurai Corporation,
Madurai.

3.The Revenue Assistant,
South Zone,
Madurai Corporation,
Madurai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the distraint notice issued by the third respondent dated 09.11.2016 with respect to assessment No.65689 of Door No.28, West Chithirai Street, Madurai and quash the same and consequently direct the respondents to re-assess the same in accordance with law by providing opportunity to the petitioner.

For Petitioner : Mr.TCS.Thillainayagam

For Respondents : Mr.T.S.Mohammed Mohideen

ORDER

The petitioner challenges a notice issued by the Madurai Corporation demanding property tax in respect of the property at Door No.28, West Chithirai Street, Madurai (in short 'property in question').

2.According to the petitioner, the property in question was purchased under two deeds of sale in 1994 and 2005. It is assessed to tax by the Corporation. Prior to the purchase, the erstwhile owner of the property, one, Jyothi Ammal, had challenged a distraint notice initiated by the respondents by way of a suit in O.S.No.460 of 1995 on the file of the Additional District Munsif Court, Madurai. The suit was decreed on 18.06.1999 in favour of the said Jyothi Ammal to the effect that the distraint notice dated 22.02.1995 was null and void and granting a permanent injunction restraining the first respondent from collecting the enhanced tax levied.

3.Pursuant to the purchase of the property in question by the petitioner, according to the petitioner, he has been paying the property taxes in time and in full. He has made requests to the respondents to re-assess the property tax on the basis of decree dated 22.02.1995 and it is pending his requests that the impugned notice dated 09.11.2016 has been issued calling upon him to pay a sum of Rs.23,09,667/- towards arrears of tax.

4.Mr.T.S.Mohammed Mohideen, learned counsel appearing for the respondents, fairly admits that prior to the issuance of the impugned distraint notice, dated 09.11.2016, no show-cause notice was issued to the petitioner. However, pending Writ Petition and after the petitioner had complied with the conditional order dated 21.11.2016 directing him to pay a sum of Rs.3,00,000/- as an interim measure, the respondents appear to have issued notice dated 16.12.2016 to the petitioner, to which objection dated 23.12.2016 has been filed before the respondents. No order has been passed thereafter till date.

5.It would, thus, in my considered view, suffice that the second respondent be directed to:

(i) furnish the basis of assessment of the property in question to the petitioner;
(ii) hear the petitioner on 14.08.2019 at 10.30 a.m., and receive written objections, if any, from the petitioner;

(iii) pass a speaking order, after considering the objections, if any, filed and oral submissions to be advanced and evidences if any produced by the petitioner and assess the property by way of a reasoned, speaking order in accordance with law, such order to be passed within a period of four weeks from date of conclusion of personal hearing.

6.The impugned distraint notice dated 09.11.2016 is set aside. The amount of Rs.3,00,000/- remitted by the petitioner pursuant to order dated 21.11.2016 shall be adjusted towards demands raised / to be raised by the respondents. It is made clear that the respondents are at liberty to fix the basis of assessment in line with the prevailing Regulations in this regard and in accordance with law.

7.This Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1.Madurai Corporation,
Rep.by its Commissioner,
Madurai-20.

2.The Assistant Commissioner,
Zone No.4, Madurai Corporation,
Madurai.

3.The Revenue Assistant,
South Zone,
Madurai Corporation,
Madurai.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-78818[F] dated 31/07/2019)

W.P(MD)No.22142 of 2016
31.07.2019

ps
JM/30.08.2019/3P/5C