IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.02.2020
CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.3903 of 2020
and WMP No.4364 of 2020

B.Ramakrishnan
.... Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Assistant Revenue Officer,
Zone -8, Chennai Corporation,
No.36-B, Bulla Avenue,
Shenoy Nagar,
Chennai - 600 030.
.... Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records relating of the 2nd respondent in his Final Warrant Notice dated 15.07.2019 and the Demand Notice dated 28.01.2020 served on 29.01.2020 relating to the demand of arrears of property tax to a sum of Rs.6,79,458/- for the period from 2nd half of 2007-2008 to 2nd half of 2019-2020 and quash the same and forbear the respondents from taking any coercive steps for recovery of the arrears of property tax or any other distrain proceedings in pursuance of the Final Warrant Notice dated 15.07.2019 and subsequent Demand Notice served on the petitioner on 29.01.2020.

For Petitioner : Mr.K.Shanmugam

For Respondents : Mrs.P.T.Ramadevi,
Standing Counsel

O R D E R

Mrs.P.T.Ramadevi, learned Standing Counsel accepts notice for the respondents.

2. Heard learned counsel for the petitioner and learned counsel for the respondents.

3. The petitioner has challenged a Final Warrant Notice dated 15.07.2019 and notice dated 29.01.2020 issued demanding current and past arrears.

4. From a perusal of the documents, it appears that the property bearing No.39/48, Dr.Radhakrishnan Nagar, Arumbakkam, Chennai 600106 (in short 'property in question') stood in the name of the petitioners' father R.Balaraman. Assessment of property tax as well as consequent demands appear to have been made even prior to the present notices for recovery. A Writ Petition had thus come to be filed in W.P. No.35509 of 2015 by the said R.Balaraman, challenging coercive recovery proceedings. This Court, by order dated 04.01.2016, disposed the Writ Petition in the following terms:

> '3. The petitioner is the absolute owner of the property bearing Old Door No.48, New Door No.39, Dr. Radhakrishnan Nagar, Arumbakkam, Chennai 600 106. He received a notice dated 22.8.2015 directing him to pay Rs.1,16,280/- being the property tax arrears in respect of the aforesaid property. Subsequently, the 2nd respondent sent a final warrant notice on 24.8.2015 demanding the said amount towards property tax arrears. Against the levy of property tax, the petitioner already moved an appeal before the 1st respondent one and the same is pending. During the pendency of the said appeal, recovery proceedings sought to be initiated by the respondents, against which, the petitioner is before this Court.
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> 4. Upon notice, learned Standing Counsel appearing for the respondent Corporation fairly submitted that the Appellate Authority would dispose of the appeal within a time frame as directed by this Court.
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> 5. In view of the submissions of the learned Standing Counsel for respondents, the 1st respondent is directed to dispose the appeal filed by the petitioner on 28.09.2015 within a period of six weeks from the date of receipt of a copy of this order on merits and in accordance with law, after affording due opportunity to the petitioner. Pending disposal of the appeal, there shall not be any recovery against the petitioner by the respondents.

5. Consequent upon the order of this Court, an order of assessment appears to have been passed dated 08.07.2016, after hearing the petitioner and inspecting as well as re-measuring the property in question and a demand of Rs.6,79,458/- was raised by the respondents. A copy of this order is placed on file by Mrs.P.T.Ramadevi, learned counsel, who also has the benefit of original records pertaining to the matter in her possession. Thereafter, the petitioner has admittedly remitted

a sum of Rs.5,20,000/- as part payment towards the disputed arrears. These are matters of record.

6. The said R.Balaraman passed away on 27.03.2018, leaving behind his Widow R.B.Kalpana and two sons R.B.Saravanan and the present petitioner, R.B.Ramakrishnan. While this is so, the impugned notices have been issued on 15.07.2019 calling upon the petitioner alone to remit the balance of the arrears computed at a figure of Rs.8,00,543/-. The first contention of the petitioner is that the part payment of Rs.5,20,000/- effected earlier has not been taken into account. That apart, he has placed on record a statutory appeal styled as a representation and dated 11.02.2020, that he states that was sent by Registered Post acknowledgment due addressed to the Commissioner, Corporation of Chennai objecting to the impugned demands. He has averred therein that the computation of the demand is incorrect, the warrants have been issued without affording any opportunity either to the deceased assessee or to his Legal Heirs and that no details have been furnished prior to the impugned computation. A postal track is also placed on record indicating that the representation has been delivered to the Park Town Head Office on 12.02.2020. However, Mrs.Ramadevi, confirms that this representation is not available on file.

7. In consideration of the sequence of dates and events as noted above and in the interests of substantial justice, I issue the following directions:-

(i) The petitioner is directed to appear before the Assistant Revenue Officer, Zone 8, Chennai Corporation, arrayed as 2nd respondent who, it is stated is the appropriate authority to consider the appeal/representation dated 11.02.2020. The petitioner shall carry a copy of the representation along with all other required particulars in support of his stand including Death Certificate, Legal heirship Certificate and other connected records in support of his computation as well as remittances stated to have been effected.

(ii) R2 shall thereupon issue notice to the petitioner as well as to the other Legal heirs and after hearing them, taking into account the submissions made as well as the payments effected earlier by R.Balaraman as well as by the Legal Heirs upto date in regard to the property tax arrears, pass an order of assessment denovo within a period of three (3) weeks from date of conclusion of personal hearing. There shall be no recovery effected until an order of assessment as aforesaid, is passed.

8. Learned counsel for the Corporation also brings to my attention the fact that the order of Assessment dated 08.07.2016 contains an endorsement by the Assistant Revenue Officer (Incharge) to the effect that R.Balaraman had refused to receive the order in person and hence the Corporation was

constrained to issue the same by Speed Post. Taking a cue from this, it is made clear that the petitioner as well the other Legal Heirs will co-operate in the proceedings for assessment and appear on all dates of hearing, failing which the Corporation is at liberty to pass an order of assessment based on available records.

9. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rkp
To

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Assistant Revenue Officer,
Zone -8, Chennai Corporation,
No.36-B, Bulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

+1cc to Mr.K.Shanmugam , Advocate SR.No. 14558
+1cc to Mr.P.T.Ram kumar , Advocate SR.No. 14773

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A.SK(21/02/2020)