IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) No.196 of 2018

The Commissioner
Coimbatore City Municipal Corporation,
Coimbatore 641 018. .. Petitioner

Vs.

Rangasamy .. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the judgment and decree passed in T\ax C.M.A.No.61 of 2006 on the file of the III Additional District and Sessions Judge, Coimbatore dated 27.03.2017 and confirming the order in TAT No.258 of 1998 on the file of the Taxation Appellate Tribunal, Coimbatore dated 28.09.1998

For Petitioner : Mr.K.Magesh

For Respondent : Mr.M.N.Balakrishnan

ORDER

This matter is taken up for hearing through Video-Conferencing.

This Revision is at the instance of the Coimbatore City Municipal Corporation feeling aggrieved by the confirmation of the order of the Taxation Appellate Tribunal by the III Additional District and Sessions Judge, Coimbatore in Taxation CMA No.61 of 2006.

2. The Appeal before the Taxation Appeal Committee was filed by the land owner impugning the assessment of the property Taxation basically contending that the same has to be assessed based on the principles for calculation of fair rent under the Tamil Nadu Buildings (Lease and Rent) Control Act. Reliance was also placed on the judgments of the Hon'ble Supreme Court in

(i) East India Commercial Co. v. Corporation of Calcutta, reported in AIR 1998 SC 789;

(ii) Rathnaprabha v. Ahamedabad City Municipal Corporation, reported in AIR 1962 SC 151;

(iii) Gundur Municipal Council v. Gundur Municipal Taxation Payee Association, reported in (1971) 2 SCC 423.

and the judgment of this Court in

(iv) Chellammal v. Alandur Muncipality, reported in (1992) 2 MLJ 299

3. The Taxation Appeal Committee by its order dated 28.09.1998 allowed the Appeal setting aside the assessment and assessed the Taxation as per the provisions of Section 4 of the Tamil Nadu Buildings (Lease and Rent) Control Act. Upon such assessment, the Taxation that was fixed at Rs.11,849/- per half year was reduced to Rs.2,752/-. This order was challenged by the Corporation by way of Appeal before the III Additional District and Sessions Judge, Coimbatore in Taxation CMA No.61 of 2006.

4. The Learned III Additional District and Sessions Judge after literally waging a war against the Corporation, was able to obtain the records and disposed of the Appeal 11 years after its filing. The reasons for the delay are set out in paragraph 5 of the order. The learned III Additional District and Sessions Judge, who heard the Appeal concurred with the conclusions of the learned Taxation Appellate Tribunal and dismissed the Appeal. Aggrieved the Corporation has come up with this Revision.

5. I have heard Mr.K.Magesh, learned counsel appearing for the petitioner and Mr.M.N.Balakrishnan, learned counsel appearing for the respondent.

6. Mr.K.Magesh, learned counsel appearing for the petitioner would vehemently contend that no opportunity was given by the Taxation Appeal Committee to the Corporation and that the Corporation was at liberty to fix the annual value, as per the Government orders issued by the Government from time to time and the resolutions of the Municipal Council. Both the Authorities have found that Section 121 (2) of the Coimbatore City Municipal Corporation Act, provides for levy of property Taxation at a certain percentage of the annual value of the building or lands. But the said provision does not provide the method for calculation of the annual value. In cases where there is no prescription regarding the fixation of the annual value, the Hon'ble Supreme Court and this Court have in the above quoted judgments held that the annual value will have to be fixed, in accordance with the provisions of Section 4 of the Tamil Nadu Buildings (Lease and Rent) Control Act or any other rent restriction Act, that is in force.

7. It is not in dispute that the Tamil Nadu Buildings (Lease and Rent) Control Act was in force in Coimbatore during the relevant period of time. Therefore, the Authorities were perfectly justified in concluding that the annual rental value has to be ascertained only on the basis of the provisions of Section 4 of the Tamil Nadu Buildings (Lease and Rent) Control Act.

8. On the claim of the learned counsel appearing for the petitioner that the Corporation was denied an opportunity before the Taxation Appeal Committee, the learned III Additional District and Sessions Judge has specifically found that no such ground has been raised in the grounds of appeal before it. I therefore do not propose to allow the counsel to raise that ground nearly after 14 years.

9. In view of the above, the Civil Revision Petition fails and it is accordingly dismissed. No costs.

25.08.2020

jv

Index: No

Internet: Yes
Speaking order

To

1. The II Additional District and Sessions Judge,
   Coimbatore.
2. The Tax Appellate Tribunal, Coimbatore
3. The Section Officer, V.R.Section, High Court of Madras.

R.SUBRAMANIAN, J.

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