IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.35541 of 2019
and WMP.Nos.36387 of 2019 & 995 of 2020

1.R.Pushpa Latha
2.R.Thilok Chandran
3.R.Bala Chandran .. Petitioners

Vs.

1.The Secretary,
Department of Local body and Municipal Administration,
Chennai.

2.The Director of Municipal Administration,
Chepauk, Chennai.

3.Assistant Director of Town Panchayat,
3rd floor, Collector office,
Sathuvachari,
Vellore-632 009.

4.The Executive Officer,
Town Panchayat, Chengam Town,
Thiruvannamalai District. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to call for the records relating to the impugned demand notices issued by the 4th respondent dated 16.03.2017, 5.1.2018 and 28.02.2019 for the period from 2012 to 2017 and 2012 to 2018, and 2018 to 2019 and to quash the same as illegal and consequently directing the 4th respondent not to take any coercive steps against the petitioners to collect the property tax without conducting a proper enquiry and affording an opportunity of personal hearing and to revise and levy the property tax as uniformity in accordance with law in respect of the petitioners property comprised in S.No.224/3A2, bearing Door No.17/1 Chengam Town, Thiruvannamalai Road, Thiruvannamalai district.

(Prayer amended as per order dated 21.01.2020 made in WMP.985 of 2020 in WP.No.35541 of 2019)

For Petitioners : Mr.M.Senthil Vadivu
For Respondents : Mr.D.Sathyaraj (for R1 & R2)
Special Government Pleader

Mr.A.S.Thambuswamy (for R4)
for Mr.B.Anand

No Appearance (for R3)

ORDER

Heard Mr.M.Senthil Vadivu, learned counsel for the petitioners, Mr.D.Sathyaraj, learned Special Government Pleader for R1 & R2 and Mr.A.S.Thambuswamy for Mr.B.Anand, learned counsel for R4. No appearance for R3.

2.It is stated that the presence of R1 to R3 is not wholly necessary in so far as R4 is the contesting respondent. The petitioner states that the property at Door No.17/1, Chengam Town, Thiruvannamalai Road, Thiruvannamalai District, comprised in S.No.224/3A2 (property in question) was constructed as a Thirumana Mandabam and has been run as such the lis in question a dispute for payment of property tax in regard to the aforesaid property. The petitioner has admittedly being in receipt of demand notices dated 16.03.2017, 05.01.2018 and 28.02.2019 calling upon them to remit property tax in respect of property in question. It appears that the husband of the first petitioner passed away on 10.12.2016. The petitioner has filed a representation thereafter on 08.02.2018 raising various points of difference with regard to the computation of property tax. No action has been taken in regard to the aforesaid representation and I must also state at this juncture that no acknowledgement has been placed on file evidencing receipt of the aforesaid representation though proof of despatch of the same is available on file.

3.On 28.02.2019 a special notice for property tax was issued for the period 2018-19 and pursuant thereto the petitioners have filed a representation on 04.12.2019 putting forth their grievances in regard to the computation of property tax. The main ground appears to be that Thirumana Mandabams similarly placed to theirs were being assessed at a much lower rate (reference is made to one S.V.Thirumana Mandabam assessed at a figure of Rs.10,182/-) as against which the tax levied on the property in question is a sum of Rs.87,120/-. Therefore, according to them, there is no uniformity maintained by the respondents and in any event neither has an opportunity been will granted prior to issue of the impugned notices.

4.The learned counsel for the fourth respondent supports the demand notices raised and has filed a detailed counter, wherein he states that though a notice was sent to the owner of the property i.e deceased husband of the first petitioner in 2012, the same is not available on file. The absence of the aforesaid notice per se may not be very material seems there has been exchange of correspondence after 2017 between the petitioners and the respondents. Though no order of assessment concluding the issue of computation is placed before me, what is placed as an annexure to the counter affidavit is an extract in the property tax assessment book, which does not set out any detail as to the manner or the methodology adopted in finalising the assessment. For the aforesaid reasons, I am inclined to pass the following directions:

(i) The petitioners will remit a sum of Rs.1,00,000/- (one lakh only) within a period of two weeks from date of receipt of copy of this order.

(ii) The petitioners will appear before the 4th respondent on Monday, the 30th of March, 2020 at 10.30 a.m. without expecting any further notice in this regard, along with proof of remittance of the above amount and on verifying compliance therewith, the 4th respondent will hear the petitioners on representation dated 04.12.2019 as well as earlier representation dated 08.02.2018 as well as any other submissions advanced by the petitioners. (Copies of the same to be furnished to R4 by the petitioners).

(iii) Thereafter, a detailed order of assessment shall be passed by the 4th respondent in accordance with law, after following the principles of natural justice and consideration of all/any materials placed on record by them.

5.Upon compliance of condition No.1, the respondents shall desist from initiating proceedings for further recovery till such time an order of assessment is passed.

6.If the condition as above is not complied with, then the stay granted will stand automatically vacated and the petitioners also lwoses the benefit of the directions as above.

7.This writ petition is disposed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

vs

To

1.The Secretary,
Department of Local body and Municipal Administration,
Chennai.

2.The Director of Municipal Administration,
Chepauk, Chennai.

3.Assistant Director of Town Panchayat,
3rd floor, Collector office,
Sathuvachari, Vellore-632 009.

4.The Executive Officer,
Town Panchayat, Chengam Town,
Thiruvannamalai District.

+1cc to Mr.A.S.Thambusamy, Advocate, SR.No.22107.
+1cc to Mr.M.Senthil Vadivu, Advocate, SR.No.24261.

W.P.No.35541 of 2019
and WMP.Nos.36387 of 2019 & 995 of 2020

SSI(CO)
CSR: 18.03.2020