IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.06.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.33003 of 2018

A.Selvaraju ..Petitioner

.v.

1.The Commissioner,
Vandavasii Municipality,
Vandavasi Town,
Cheyyar Taluk,
Tiruvannamalai Distrit.

2.Commissionerate of Municipal Administration,
Ezhilgam,
Chepauk,
Chennai 600 005.

3.The District Collector,
Thiruvannamalai District,
Vengikkal,
Tiruvannamalai. ... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petitioners representation dated 05.07.2018 and to transfer the property tax of te building situate in Door No.67W f Vandavasi Town, Cheyyar Taluk, in the name of the petitioner and to give water and sewage connection to the building.

For Petitioner : Mr.V.Prakas Babu

For R 1 : Mrs.M.lalitha

For R 2 & R 3 : Mr.E.Balamurugan
Special Government Pleader

O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner on 05.07.2018 and to transfer the property tax in the name of the petitioner to enable the petitioner to get the water and sewage connection.

2.The case of the petitioner is that the property in question was brought for sale in DRT proceedings and the petitioner purchased the property in the public auction and the sale was confirmed in favour of the petitioner by the DRT by an order dated 26.12.2017. Thereafter, the Sale Deed was also executed in favour of the petitioner. According to the petitioner, the previous owner of the property had shut down the commercial operations which was carried out in the property till 2004 and therefore the Municipality cannot demand for property tax thereafter on commercial rate. The petitioner has further stated in the affidavit that the 1st respondent has also sent a demand notice dated 31.03.2018, demanding for the arrears of the property tax of a sum of Rs.10,55,790/-. This notice was issued in the name of the previous owner. The petitioner had also paid a sum of Rs.2,43,540/- out of the total demand. According to the petitioner, the petitioner is not liable to pay any arrears of property tax and therefore a representation was made to the respondents on 05.07.2018, to transfer the property tax in the name of the petitioner. Since the same was not considered, the present writ petition has been filed before this court seeking for appropriate directions. The 1st respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit is extracted hereunder:

> "4. I respectfully submitted that the earlier land lord (Viz) Sukmandar Singh Bhoparai has not paid the property tax from the year 2003-04 (second half to 2017-18 (second half). The total arrear amount of property tax comes arrear a sum of Rs.10,55,790/-and the same was not paid till date.
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> 5.It is respectfully submitted that the petitioner has purchased a property through DRT proceedings through he OA.42/2007. During the proceedings the Respondent Municipality has approached the DRT for recovery of order arrear tax amount of sum of Rs.9,74,160 till 2016-2017 (second half year).

6. It is respectfully submitted that the writ petitioner has purchased the property after gone through the entire relevant records and document pertaining to the above said property. The claim made by the Municipality for arrear of tax amount is part and parcel of the DRT Proceedings. The petitioner came to know the entire facts and arrear of property tax here as purchased the above mention property.

7.It is respectfully submitted that the total arrear amount is with regard to the property is for a sum of Rs.10,55,790/-, but the petitioner as paid only Rs.2,43,540/- and the balance arrear amount of Rs.8,12,250/-, has to be paid by the petitioner herein if the petitioner is come forward to pay the entire arrear amount the respondent Municipality is ready to transfer the property tax in the name of the petitioner otherwise the claim of the petitioner's representation dt.05.07.2008 for transfer of the property tax in the name of the petitioner could not be considered".

3.Heard the learned counsel appearing on either side and carefully perused the records.

4.It is clear from the counter affidavit filed by the 1st respondent that the earlier owner of the property had left a total arrears of Rs.10,55,790/- and the petitioner was aware about the same since the Municipality had approached the DRT for the recovery of the arrears of property tax. The petitioner had infact paid a sum of Rs.2,43,540/-. The notice issued by the Municipality has not been put to challenge and therefore, this Court cannot go into the grounds raised by the petitioner to the effect that the Municipality ought not to have levied the tax on commercial basis.

5.The 1st respondent has taken a very specific stand that if the petitioner pays the balance arrears amount, the Municipality is ready to transfer the property tax in favour of the petitioner.

6.The petitioner without challenging the demand notice issued by the Municipality, cannot be allowed to collaterally question the same by filing a writ of mandamus to direct the respondents to consider the representation. In fact, the petitioner himself has acted upon the demand notice and paid a sum of Rs.2,43,540/-.

7.In view of the above, this writ petition is disposed of with a direction to the petitioner to settle the balance arrears of a sum of Rs.8,12,250/- to the 1st respondent and the 1st respondent immediately thereafter shall transfer the property tax in favour of the petitioner.

Accordingly, this writ petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

KP
To
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