



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5876 of 2020
and W.M.P(MD)No.5091 of 2020

T.Jeyaprakash

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai District - 625 002.

2.The Assistant Commissioner,
Madurai Corporation,
Zone - I,
Mahaboo Palayam,
Madurai District - 625 016.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Demand Notice dated 04.11.2019 on the file of the second respondent and quash the same as illegal and consequently direction directing the respondents to reassessment the petitioner's House Property Tax in Old No.115/133713, New No.115/021/01847 as if authorized construction instead of unauthorized construction by considering the objection made by the petitioner dated 03.03.2020 and 18.03.2020.

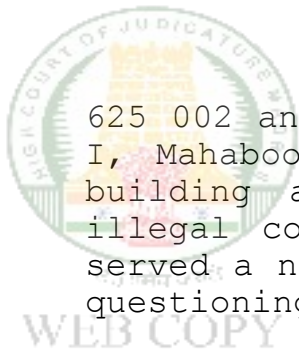
For Petitioner : Mr.L.Pinaygash

For Respondents : Mr.R.Prabhu Ramachandran,
Standing Counsel

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner is facing a very peculiar problem. After obtaining a necessary planning permission, he has put up first floor in his house. Unfortunately, the respondents / the Commissioner, Madurai Corporation, Arignar Anna Maligai, Madurai District -



625 002 and the Assistant Commissioner, Madurai Corporation, Zone - I, Mahaboo Palayam, Madurai District - 625 016 have assessed the building and they fixed fine amount for illegal extension and illegal construction in the first floor. Accordingly, they have served a notice on the petitioner. The writ petition has been filed questioning the same.

3.The learned Counsel for the petitioner placed reliance on Section 169(2)(9) of Madurai City Municipal Corporation Act 1971, which provides as follows :-

"9.Consequent on the verification made under rule 8, if any discrepancy is noticed in the particulars furnished in the return filed by the owner or occupier, the Commissioner may, after giving such owner or occupier a reasonable opportunity, of being heard and after considering the objection, if any, received from him, modify the assessment from the date on which the assessment was made and collect the arrears of tax."

4.The learned Counsel for the petitioner placed specific reliance on the stipulation that a reasonable opportunity of being heard must be provided and another order of assessment can be passed only after considering the objection raised by the petitioner.

5.The learned Counsel further stated that had the respondent enquired with him, he would have clarified that he has in possession a plan and had then put up construction in the first floor.

6.Mr.R.Prabhu Ramachandran, learned Standing Counsel takes notice on behalf of the respondents.

7.The petitioner had also given a representation in this regard, raising objection for the assessment and disputing that there was no plan approval for the first floor in the house of the petitioner, dated 18.03.2020.

8.A Mandamus is issued to the respondents, to issue notice to the petitioner, enquire the details with him, examine the plan and other records and thereafter, if it warrants re-assesses the property in accordance with rules. The respondents may complete this entire exercise on or before 30.04.2020. Till such reassessment proceedings are completed, it may be very harsh on the respondents, if the petitioner is directed to pay the demand notice. Therefore, let further demands may be made only after the reassessment order.

9.With the above observation, the writ petition is disposed



of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai District - 625 002.

2.The Assistant Commissioner,
Madurai Corporation,
Zone - I,
Mahaboo Palayam,
Madurai District - 625 016

+1 CC to M/s.R.PRABHU RAMACHANDRAN, Advocate (SR-12635[F] dated 20/03/2020)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-12898[F] dated 23/03/2020)

W.P (MD)No.5876 of 2020

20.03.2020

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