

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.3228 OF 2020

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned standing counsel appearing for the second respondent - Corporation.

2. The prayer sought in the writ petition is as under:

'For the reasons stated in the accompanying Affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the DISTRESS WARRANT vide Lr No: NMC/REV/Z-III/0021/2019-20 dt:02.02.2020 issued by the 2nd respondent, demanding an amount of Rs.17,70,750/- for the period April 2010 to March 2020 as arbitrary, illegal, erroneous and violative of Art.14, 21 and 300 A of the Constitution of India and set aside the same and pass such other orders as this Hon'ble Court deems fit and proper in the circumstances of the case.'

3. Learned counsel for the petitioner submits that the impugned distress warrant cannot be issued when an appeal is pending against the orders passed in the revision. He also brought to the notice of this Court that as per Section 269 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), if any person is liable for payment of the taxes is not paid within 15 days from the service of notice of demand or shows sufficient cause for non-payment of the same to the satisfaction of the Commissioner and if no appeal is preferred against the said tax, as hereinafter provided, such sum with all costs of the recovery may be levied under a warrant in the form of Schedule L by the Commissioner.

4. Learned counsel for the petitioner further submits that against enhancement of the property tax, the petitioner filed a revision before the second respondent – Corporation. However, the said revision was dismissed by an order in proceedings No.A/04003/2015 dated 29.04.2015 directing the petitioner to pay the taxes at the enhanced rate of Rs.78,078/-, in respect of the property bearing No.4-3-71. Aggrieved by the said order, the petitioner filed an appeal, *vide* C.M.A.No.1 of 2018 before the Senior Civil Judge, Nizamabad, and the same is pending consideration. The said appeal is posted to 24.03.2020 'for hearing'. As per Section 269 of the Act unless and until the appeal is decided, the respondents are not entitled to issue the distress warrant.

5. Learned standing counsel appearing for the second respondent – Corporation has not disputed the above said legal position.

6. If that be so, the learned Senior Civil Judge, Nizamabad, is directed to dispose of C.M.A.No.1 of 2018 as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. Till the final orders are passed in the said appeal, the second respondent is directed not to take any coercive steps subject to the petitioner depositing a sum of Rs.3,00,000/-. The said amount will be adjusted subject to the orders that will be passed in the appeal.

7. With the above said observation, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE P.KESHAVA RAO

Date: 20.02.2020

PGS