THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.9903 OF 2010

ORDER:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents.

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

> "For the reasons stated in the above accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ, order or direction and more particularly one in the nature of Writ of Mandamus declaring the Notice of demand in No.20044/2009-10 dated 9.12.2009 issued by the 2nd respondent, as illegal, arbitrary, null and void; and consequentially set aside the same and grant such other order or further orders deemed just and proper."

3. The learned counsel for the petitioner submits that the petitioner is owner and possessor of the premises bearing No.3-6-750/5, situated at Himayanathnagar, Hyderabad, in an extent of 130 square yards. The petitioner is paying property tax for the last 40 years @ Rs.900/- per year regularly without any default. In the road widening process, some extent of the petitioner's land was taken leaving only 62 square yards. In those circumstances, the petitioner submitted a letter, dated 20.06.2005, requesting the 1st respondent Corporation to reduce the property tax proportionately. The petitioner also issued reminding letters, but no action was taken.

4. While the matter stood thus, the 2nd respondent issued notice No.TC9/GHMC/2008-09, dated 27.01.2009, enhancing the property tax from the existing Rs.900/- per annum to

Rs.75,710/- for six months i.e., half year. In the notice issued, for the column meant for reasons for increase/new assessment, no reasons are assigned and the column has been kept vacant. Aggrieved by the said enhancement of about 160 times, the petitioner requested the 2nd respondent to know the reasons for such abnormal increase by letter, dated 07.02.2009, and subsequently also, he made representations, but no reply was received by the petitioner. The petitioner also submitted a letter, dated 03.02.2010, to the 2nd respondent to cancel the demand notice. However, the 2nd respondent without even giving any reference to the letter submitted by the petitioner objecting for the abnormal increase, issued the impugned notice in Demand No.20044/2009-10, dated 09.12.2009, for a total sum of Rs.3,62,927/-. The petitioner also states that the respondents failed to supply the information or inform the petitioner on which the property tax has been enhanced by more than 150 times.

5. However, the learned Standing Counsel appearing for the respondents would support the impugned demand notice, but on the query asked by the Court, the learned Standing Counsel fairly submits that prior to the issuance of the impugned demand notice, no notice has been issued to the petitioner as to why the property tax should not be increased.

6. Having heard both the counsel and from the perusal of the affidavit filed in support of the writ petition and the material

enclosed thereto, this Court is of the opinion that the issuance of the impugned demand notice increasing the property tax by more than 150 times, is arbitrary and illegal. The respondents being the Government instrumentalities are under an obligation to inform the tax payers the reasons for any demand of tax as well as the increase therefor. However, in the case on hand the respondents miserably failed to discharge their obligation cast on them under the statute while issuing the impugned demand notice. The said issue has cropped up for consideration before a Division Bench of this Court in **S. Shakuntala v. Addl. Commissioner, Municipal Corporation of Hyderabad, Secunderabad Division[1].** This Court while considering the issue, held as under:

> "8. The present case falls under the second category. There is also a provision with reference to assessment and levy of penalty in case where the building is constructed or reconstructed or portion of which is unauthorisedly constructed, but it is necessary to refer that aspect here. The substance of Section 221 of the Act is that it enables every complainant who is aggrieved by the amount of any rateable value entered in the assessment book to give a written application to the Commissioner at his office before the period specified either in the public notice or in the special notice, as the case may be. The Commissioner is, however, given the power to condone the delay where the complaint is not made within the specified time, if the delay is explained to his satisfaction. Section 222 enjoins the Commissioner to maintain a register of complaints and to give notice in writing to each complainant, of the day, time and place when and whereat his complaint shall be investigated. The provisions of Section 223 are enacted to ensure that the complaints are investigated in the presence of the complainants and if for any reason, a complainant is absent, it also enables the Commissioner to

[1] 1996 (2) ALT 723 (DB)

adjourn the case for investigation from time to time, if reasonable cause is shown. Sub-section (3) of Section 223 of the Act directs that after the disposal of the complaint, the result of the same shall be noted in the book of complaints kept Under Section 222 of the Act and to make necessary amendments, if any, in the assessment book in accordance with the result. It is implicit in Sub-section (3) of Section 223 of the Act that the result of the disposal of the complaint should be communicated to the complainant. The mere fact that there is no specific requirement under Sub-section (3) does not absolve the Commissioner of this responsibility. We are therefore, of the view that on disposal of the complaint, the Commissioner is bound to communicate the result of the complaint to the complainant by a reasoned order as Section 282 of the Act entitles him to challenge that order in appeal before a Judge as defined under the Act."

7. In these circumstances, this Court is of the opinion that the impugned demand notice, dated 09.12.2019, is not sustainable in law and the same is liable to be set aside.

8. Accordingly, the Writ Petition is allowed setting aside the impugned demand notice No.20044/2009-10, dated 09.12.2009. However, the 1st respondent Corporation is directed to consider the representations submitted by the petitioner, dated 07.02.2009, 07.04.2009 and 22.03.2010, and pass appropriate orders, as per law, by giving an opportunity of hearing to the petitioner, within a period of four (04) weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

P.KESHAVA RAO, J

Date: 6th February, 2020
KL