IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.3369 of 2020
and WMP No.3915 of 2020

A.Mohammed Usman

... Petitioner

Vs

The Commissioner,
Tindivanam Municipality
Tindivanam,
Villupuram District.

…Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari calling for the entire records pending on the file of the respondent in pursuant to the demand notice bearing Tax No.043/029/00169 dated 26.12.2018 issued by the respondent demanding the arrear amount of property tax from the year 1993-94 to 2018-19 totally for a sum of Rs.82,165/- and quash the same.

For Petitioner : Mr.G.Baskar

For Respondents : Mr.P.Srinivas
Standing Counsel

O R D E R

Heard Mr.G.Baskar, learned counsel for the petitioner and Mr.P.Srinivas, learned Standing Counsel for the respondent.

2. The petitioner challenges demand notice dated 26.12.2018 calling upon him to remit alleged arrears of property tax under the Tamil Nadu District Municipalities Act, 1920 (in short 'Act') in respect of the property at No.28A NGO Colony, Tindivanam for the periods 1993-94 to 2018-19. The property originally stood in the name of the petitioner's father, who had been in receipt of notice of enhancement of tax in the year 1994.

3. The proceedings for enhancement came to be challenged by the petitioner's father in O.S.No.139 of 1995 before the District Munsif Court, Tindivanam and by judgment and decree dated 23.04.1996, the proceedings stood quashed. This order has attained finality.

4. Subsequently, it appears that the petitioner had applied for partition and the property has come to vest in him. The petitioner would aver that from the year 1993 to 2013, he has been regularly paying the tax due. It is unclear as to whether the petitioner has remitted any amounts for the periods thereafter and the typed set filed in support of the affidavit contains some tax-paid receipts till 2013-14. The present impugned demand has come to be raised on 26.12.2018 calling upon the petitioner to remit the alleged arrears for 1993-94 to 2018-19, challenged in this Writ Petition.

5. I am of the view that the impugned demand, in its present form cannot be sustained for two reasons. Firstly, it relates to a demand for the periods 1993-94 to 2018-19, when the enhancement made originally was itself quashed by judgment and decree dated 23.04.1996, such order having attained finality. Secondly and assuming that the demand had not been quashed in full, the demands cannot be revived after thirteen years from the periods in question.

6. Section 345 of the Act sets out a limitation for recovery of dues as being twelve years from the date on which an order of distraint might first have been made, a suit might first have been instituted or prosecution might first have been commenced, in regard to the arrears. Section 345 reads as follows:

> 345. Limitation for recovery of dues .— No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the Municipal Council under this Act after the expiration of a period of twelve years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

7. The impugned demand is set aside and the respondent is directed to verify if the demands outstanding are made in line with the limitation under Section 345 of the Act and pass a speaking order in that regard, prior to issuing a fresh demand, if at all.

8. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner,
Tindivanam Municipality
Tindivanam,
Villupuram District.

+1cc to Mr.M/s.G.Baskar, Advocate Sr.21704

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srg 21/06/2021