IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18139 of 2012
and
M.P.No.1 of 2012

1.K.Bagyalakshmi
2.K.Arul Parthiban ...Petitioners

Vs

The Urban Land Tax Officer & Tahsildhar,
Namakkal. ...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the respondent relating to the demand notice bearing Asstt.No.13/A10/1401 dated 04.05.2012, quash the same.

For Petitioners : No appearance

For Respondent : Mr.V.Nanmaran
Government Advocate

O R D E R

The writ petition is filed, challenging the demand notice dated 04.05.2012 issued by the respondent.

2. When the matter was listed for hearing on 21.09.2020, none appeared for the petitioners and this Court directed the Registry to issue a fresh notice of hearing to the petitioners/parties-in-persons returnable by 28.10.2020, specifying that the matter would be called through Video-Conferencing. Again the matter was listed on 30.07.2021, and on that day also, the petitioners have not appeared and the matter was directed to be listed under the caption 'for dismissal' on 03.08.2021. On 03.08.2021 also, none appeared for the petitioner. Again, it was posted under the caption 'for dismissal'. The matter was taken up for hearing on 09.08.2021 and this Court directed the respondents to explain why counter affidavit has not been filed and further actions taken on the impugned demand notice. Thus, the matter is listed today finally.

3. The respondent filed counter affidavit and they made an attempt to serve the copy of the counter affidavit to the petitioners and the petitioners had refused to receive the counter affidavit filed by the respondent and accordingly, the officials of the respondent affixed the same on the doors of the petitioners. Thus, the counter affidavit was served. When the matter is taken up today, there is no representation on behalf of the writ petitioners.

4. The demand notice is under challenge. The demand notice would reveal that it was issued, demanding Urban Land Tax under Section 14 read with Section 40-A of the Tamil Nadu Urban Land Tax Act, 1966. The first petitioner was the owner of the land to the extent of 12,389 and ½ sq.ft in Survey No.33, Block No.10, Ward-A at Salem Road, Namakkal Town, which was allotted to her towards her share in a final decree dated 03.03.1998 in I.A.No.494 of 1986 in O.S.No.156 of 1983, on the file of Sub Court at Namakkal and vide a settlement deed dated 14.07.2006. She had settled the land measuring an extent of 6,487 and ½ sq.ft to and in favour of the 2nd petitioner. In respect of the said property, the Urban land tax was not paid from the year 1996 (Fasali year 1406) to 2011 (Fasali year 1421).

5. Thus, the respondent issued the demand notice dated 04.05.2012 in Form 6 under Section 14 of the Urban Tax Act to the petitioners, stating that the assessee required to pay a sum of Rs.42,068/- within fifteen days from the date of service of notice. The notice was duly served to the petitioners. Despite the receipt of the said demand notice dated 04.05.2012, the petitioner had not filed any objections nor paid the tax as demanded. However, on 02.07.2012, the petitioners paid a sum of Rs.10,000/- towards Urban Land Tax and the said amount has been given credit in their account and the respondent office issued a receipt dated 02.07.2012 bearing receipt Nos.192088 was issued to the petitioner. Subsequently, the petitioners had failed to pay the balance tax amount.

6. The petitioners filed the writ petition and an interim order was granted by this Court for a period of six weeks and thereafter, the said interim order was not extended. The respondents have stated that the petitioner has not exhausted the Appellate remedy as provided under Section 20 of the Urban Land Tax Act and therefore, the writ petition is to be rejected.

7. The petitioners have filed the writ petition, challenging the demand notice in the year 2012. Thereafter, they have paid a sum of Rs.10,000/- towards Urban Land Tax in the year 2012. However, no subsequent demand was made. Against the demand

notice, the petitioners have not submitted any objections or explanations nor filed any appeal before the Appellate authority under Section 20 of the Urban Land Tax Act. The petitioners have not even appeared before this Court on several occasions in spite of the fact that the case was adjourned on several occasions in order to provide an opportunity to the petitioner. Even after serving of the counter affidavit by the respondents, the petitioners have refused to receive the counter affidavit and the counter affidavit was affixed in the doors. This being the conduct of the petitioner, this Court is of an opinion that the petitioners have not pursued the writ petition, despite the fact that they had knowledge about the listing of the case on several occasions. Such a conduct is to be deprecated. A litigant, approaching the Court, is expected to be vigilant in pursuing the matter and whenever the cases are listed, they are bound to appear and made submissions by availing the opportunities. Contrarily, they are not expected to avoid hearing of the case with an idea to prolong or protract the issues.

8. In the present case, Section 20 of the Urban Land Tax Act contemplates an appeal. If at all, the petitioner is aggrieved from and out of the demand notice issued by the Assistant Commissioner, the petitioner has to prefer an appeal. The disputes relating to facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Further, in the present case, the petitioner has not even participated in the process of hearing before this Court.

9. This being the factum, the petitioner is liable to pay the Urban Land Tax as demanded without any further delay and if they are aggrieved from and out of the quantum of tax levied, then they are at liberty to prefer an appeal before the competent Appellate authority in the manner known to law.

10. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Urban Land Tax Officer & Tahsildhar,
Namakkal.

+1 CC to The Government Pleader, Sr.No. 42095.

W.P.No.18139 of 2012

PCH(CO)
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