IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.21406 of 2021

and

W.M.P.No.22644 of 2021

E.Vijaya Lakshmi
W/o.Late.Mr.K.Eswarappa ... Petitioner

-Vs.-

1. State of Tamilnadu
Rep.by its Secretary to Govt.
Municipal Administration & Water Supply Dept.
Secretariat, Fort St.George,
Chennai-600 010.

2. The Commissioner,
Corporation of Chennai
Ripon Building, Chennai-600 003.

3. The Assistant Revenue Officer,
Corporation of Chennai,
Revenue Department, Zone-V,
No.61, Basin Bridge Road,
Chennai-600 021.

4. Zonal Assistant Revenue Officer,
Corporation of Chennai,
Revenue Department, Zone-V,
No.62, Basin Bridge Road,
Chennai-600 021. .. Respondents

Writ Petition, filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call upon the records of the third respondent in Notice No.1:General Revision:2018-19 ref No.7/2018-19/123245 dated 28.11.2018 and all proceedings pursuant thereto Property Tax A/c.No.05/058/03614/000 and quash the same as arbitrary and violative of principles of natural justice and consequently direct the third respondent to consider the petitioner's objection dated 12.03.2020 and 17.12.2020.

For Petitioner : Mr.R.Ganesh Kumar.

For Respondents : Mr.NRR.Arun Natarajan,
Government Advocate for R1
Ms.S.Vaitheeswari,
Standing counsel for Chennai
Corporation for R2 to R4

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ORDER

Captioned writ petition and writ miscellaneous petition therein are in the Admission Board.

2. Mr.R.Ganesh Kumar, learned counsel for writ petitioner is before this Virtual Court.

3. Mr.NRR.Arun Natarajan, learned State counsel accepts notice on behalf of the first respondent and Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of the respondents 2 to 4. With the consent of all the aforementioned learned counsel, captioned writ petition was taken up, as the matter turns on a very narrow compass.

4. Short point that falls for consideration is enhancement/revision of property tax for the writ petitioner's property at '45(32), Navel Hospital Main Road, Periamet, Vepery, Chennai-600 003' [hereinafter 'said property' for the sake of convenience and clarity].

5. Learned counsel for writ petitioner, at the outset, expresses regret for the error that has crept into the prayer. Prayer in the writ petition talks about Tribunal. Learned counsel submits that this is an inadvertent typographical error, expresses regret, and requests this Court to read 'Tribunal' as 'Court'.

6. Be that as it may, regarding crux of the matter is property tax qua said property has been enhanced to Rs.2,27,210/- i.e., a little over 2.27 Lakhs with effect from I/2018-19 or in other words, with effect from 01.04.2018. To be noted, 01.04.2018 to 30.09.2018 is described as first half year for 2018-2019.

7. Learned counsel submits that there was no prior notice (prior to the impugned communication captioned 'Notice No.1: General Revision : 2018-19' (பொது சீராய்வு அறிவிப்பு) and therefore, the procedure adumbrated under Section 100 of 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' which was earlier known as Madras City Municipal Act, 1919, and therefore, which shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity and Rules i.e., Taxation Rules adumbrated in Schedule IV of MCMC Act, have not been adhered to. There is a demand notice captioned 'இறுதி வாரண்ட் நோட்டீஸ்' dated

05.03.2020. Though the challenge going by the prayer is to பொது சீராய்வு அறிவிப்பு dated 28.11.2018, this Court, in the facts and circumstances of this case, deems it appropriate to take it as a challenge to இறுதி வாரண்ட் நோட்டீஸ் also. Learned standing counsel for Chennai Corporation submits that the records of Chennai Corporation do not demonstrate any notice prior to the impugned notice and the impugned notice has been dispatched to the writ petitioner by ordinary post.

8. Writ petitioner has sent objections on 17.12.2020 and therefore, it may not be necessary to go into the question of dispatch by ordinary post. Assuming for a moment, the objections have been considered, a final order in accordance with the procedure adumbrated under Section 100 of MCMC Act and Taxation Rules ought to have been made. Learned standing counsel, on instructions, submits that some resolutions have also been made under Section 99 of MCMC Act. If that be so, those resolutions should have been adopted or adhered to. Neither have been done. Therefore, this calls for interference qua impugned notice and இறுதி வாரண்ட் நோட்டீஸ். This Court is informed without any disputation or disagreement that the existing half yearly property tax that is being paid by writ petitioner is Rs.19,000/- per half year. Considering the length of time, for which this quantum is operating, this Court deems it appropriate that least or bare minimum should be 100% enhancement i.e., enhancement to Rs.38,000/- but with a caveat that this is on thumb rule and any rent at this rate will be on adhoc/on account basis. This is also owing to the undisputed position that this Rs.19,000/- is operational from I/1993-94. Therefore, this Court as an interim arrangement, deems it appropriate to direct the writ petitioner to pay adhoc/on account at the rate of Rs.38,000/- from I/2018-19 per half year till de novo proceedings are commenced and concluded in accordance with law.

9. Captioned Writ Petition is disposed of by making the following orders:

(a) Impugned notice dated 28.11.2018 being Notice:7/18-19/123245 and final warrant notice bearing Notice No.செ.ம.அ.வ.து/சிறப்பு/2019-20 dated 05.03.2020 are set aside on the ground that the procedure adumbrated in Section 100 of MCMC Act and Taxation Rules (Schedule IV of MCMC Act) have not been followed;

(b) Chennai Corporation shall commence revision/proceedings forthwith, de novo do the revision, in accordance with Section 100 of MCMC Act and Taxation Rules which form part of MCMC Act i.e., Schedule IV of MCMC Act and any applicable resolution (if any) either under Section 99 of MCMC Act or any other Act;

(c) It is open to the writ petitioner to reiterate the objections that have already been sent and writ petitioner's counsel on instructions, submits that the writ petitioner will co-operate with de novo proceedings and ensure that they are expeditiously completed. The de novo upward revision i.e., revision of property tax with effect from I/2018-19 shall be commenced and concluded as expeditiously as possible and in any event, within three months from today i.e., on or before 04.01.2022;

(d) Till the aforesaid exercise is completed, the writ petitioner shall pay property tax of Rs.38,000/- per half year for the said property (thumb rule approximation) which shall be adhoc/on account payment subject to adjustments of payments which are said to have already been made and subject to the ultimate revision which shall be made qua de novo exercise;

(e) If there is any delay or default on the part of writ petitioner qua this payment of Rs.38,000/- with effect from I/2018-19 per half year, legal consequences will follow and it is open to Chennai Corporation to resort to legal measures available to them in this regard;

10. Captioned Writ Petition is disposed of with the above directives. Consequently, connected writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

mk/nsa

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
State of Tamilnadu
Municipal Administration & Water Supply Department
Secretariat, Fort St.George,
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Chennai-600 021.

+1 C.C. to M/S.R.GANESH KUMAR, ADVOCATE SR.NO.51804/2021

+1 C.C. to THE GOVERNMENT PLEADER, HIGH COURT, MADRAS SR.NO.52466/2021

W.P.No.21406 of 2021
and W.M.P.No.22644 of 2021

GP(CO)
PM(21/10/2021)