IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.21893 of 2021
and
W.M.P.No.23097 of 2021

1. T.R.Narasimman,
S/o.T.Ramaiah.

2. T.N.Subashini,
W/o.T.R.Narasimman. ...Petitioners

-Vs.-

1. The Commissioner,
Greater Chennai Corporation,
Park Town, Chennai-600 003.

2. The Assistant Revenue Officer,
Zone-VI, Greater Chennai Corporation,
Ayanavaram,
Chennai-600 023. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents for collecting remaining 50% of enhanced half yearly tax retrospectively commencing from I/2012-13 ending with I/2021-22 in respect of Bill number is 01746, Old 4-052-0530-000 with respect to R.K.Mahal at 12 Kabilar Street, Perambur, Chennai 600 011 pending disposal of M.T.A.Sr.No.13976/2019 on the file of State Tax Appellant Authority i.e., the learned Principal District and Sessions Judge, City Civil Court at Chennai.

For Petitioners : Mr.J.R.K.Bhavanantham
For Respondents : Ms.S.Vaitheeswari
standing counsel for
Chennai Corporation

O R D E R

Captioned writ petition has been filed with a Mandamus prayer seeking a direction restraining the respondents from collecting balance 50% of enhanced half yearly property tax retrospectively commencing from I/2012-13 and ending with I/2021-22.

2. To be noted, the property in question is 'R.K.Mahal at 12 Kabilar Street, Perambur, Chennai 600 011' [hereinafter 'said property' for the sake of convenience and clarity] and this Court is informed that it is a Kalyana Mandapam.

3. Mr.J.R.K.Bhavanantham, learned counsel for writ petitioners, submits that the two writ petitioners are the joint owners of said property, they having purchased the same from a third party on 11.05.1998. Learned counsel submits that the writ petitioners were visited with a revised assessment notice for said property on 17.06.2017. Writ petitioners sent in their objections. Thereafter, the revision stood affirmed on 07.08.2017. Writ petitioners carried the matter in appeal by way of regular appeal to the 'Taxation Appellate Tribunal' ['TAT'] inter alia under Rule 12 of the 'Taxation Rules' forming part of Schedule IV 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' {hereinafter 'said Rules' for the sake of convenience and clarity} which was earlier known as Madras City Municipal Act, 1919, and therefore, shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity. This appeal was taken on file by TAT as Tax Appeal No.41/2017. This appeal, after full contest, came to be dismissed by TAT on 20.08.2019. Learned counsel submits that this 20.08.2019 order made by TAT dismissing the Statutory appeal has been assailed further before the learned Principal Judge of the City Civil Court, Chennai, by way of a Statutory appeal inter alia under Rule 15 of said Rules. Admittedly, this appeal is dated 29.08.2019 and it was presented before learned Principal Judge two years ago. This Court is informed that this appeal is lying in objections.

4. Learned counsel for writ petitioners contended that though it was the look out of the writ petitioners to process the appeal and bring it up for hearing before learned Principal Judge, the respondent Corporation has levied penalty, pending appeal before TAT. Notwithstanding the writ petitioners having complied with requirement of depositing 50% of differential amount i.e., 50% of enhanced component of revised tax, it is seen from case file placed before this Court that this penalty for various half years has been duly paid by writ petitioners and property tax receipt is as follows:

5. Learned counsel submitted that the respondent

Greater Chennai Corporation

PROPERTY TAX RECEIPT

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Receipt No: 2021-22/N069/0392322 Receipt Date: 30-07-2021 17:15:17

Name: T R NARASIMHAN & ANOTHER

Address: 1(12), Kabilar Street , Madumanagar Siruvallur, Perambur, CHENNAI - 600011

Payment Details: Description: Property Tax Bill Number: 06-069-01746-000/04-052-0530-000

Paid By: T R NARASIMHAN & ANOTHER

Description Head of A/C	Amount (In Rupees)
I/16-17	87335.00
Property Tax Late Pay Penalty for II/16-17	784.00
II/16-17	107921.00
Property Tax Late Pay Penalty for I/17-18	930.00
I/17-18	128165.00
Property Tax Late Pay Penalty for II/17-18	930.00
II/17-18	128165.00
Property Tax Late Pay Penalty for I/18-19	930.00
I/18-19	44840.00
Total:	5,00,000.00

Amount (in words): Rupees Five Lakh Only

Cheque # 741096 Drawn on STATE BANK OF INDIA, SBIN0016283 Dated 26-07-2021

Corporation has now issued a notice dated 01.10.2020 demanding half yearly property tax totaling a sum of Rs.14,37,233/-. A careful perusal of notice dated 01.10.2020 reveals that it is under Section 104 of MCMC Act and on compliance get incentive under Rule 29-F of said Rules. It is a regular demand notice payable within a fortnight from the date of commencement of every half year. Learned counsel submits that the writ petitioners having duly paid penalty, the same should have been adjusted and when their statutory appeal before learned Principal Judge is being pursued, 01.10.2020 notice ought not to have been issued.

6. Ms.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of both respondents and with the consent of both sides, the main writ petition is taken up as the matter turns on a narrow point.

7. Writ petitioners have to blame themselves for not having pursued the statutory appeal preferred before learned Principal Judge, City Civil Court, Chennai in August of 2019, to be precise appeal dated 19.08.2019 vide MTA SR.No.13976 of 2019. If the writ petitioners had pursue the statutory appeal diligently and if the writ petitioners succeed wholly or partially, penalty demand etc., can be given a quietus. Writ petitioners have duly paid the penalty, however, in the light of the point that is urged by learned counsel for writ petitioners, the question is left open subject to outcome of appeal before learned Principal Judge.

8. Learned standing counsel for Chennai Corporation submits, on instructions, that as far as 01.10.2020 notice is concerned, it is a regular notice which has to be issued when property tax remains unpaid for over a fortnight after commencement of half year. Learned counsel submits that on TAT dismissing writ petitioners' statutory appeal vide Tax Appeal No.41 of 2017 on 20.08.2019, Chennai Corporation is entitled to demand property tax at the enhanced rate. Learned counsel also points out that it is a case where writ petitioners' property is a Kalyana Mandapam. Though this is for completion of facts, this Court has noticed this factual aspect of the matter also.

9. Be that as it may, other than giving the aforementioned short window to writ petitioners to say that the

question of levy of penalty will also be left open subject to outcome of appeal before learned Principal Judge, this Court is not inclined to interfere in writ jurisdiction qua case on hand. Writ petitioners will do well to expedite the process of removing objections and have the aforementioned appeal heard out as expeditiously as possible. If the writ petitioners remove the objections and if the appeal is brought up before the learned Principal Judge, City Civil Court, Chennai, learned Principal Judge is requested to dispose of the appeal as expeditiously as his business would permit preferably within three months from the first date of listing post numbering i.e., post removal of objections by the writ petitioners. Though obvious, it is made clear that learned Principal Judge, City Civil Court, Chennai, shall deal with the appeal on its own merits and in accordance with law, uninfluenced/untrammeled by any observations that is made in this order which is for the limited purpose of disposal of captioned writ petition. Owing to all that have been set out supra, this Court is not inclined to interfere in writ jurisdiction qua the matter on hand. Any payment made either by way of pre-deposit or by way of any statutory requirement or any adhoc/on account payment for that matter shall also be given due credit subject to outcome of appeal before learned Principal Judge, City Civil Court, Chennai.

10. Captioned Writ Petition is dismissed albeit preserving the rights of writ petitioners vide a small window as delineated supra. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1. The Commissioner,
   Greater Chennai Corporation,
   Park Town, Chennai-600 003.

2. The Assistant Revenue Officer,
   Zone-VI, Greater Chennai Corporation,
   Ayanavaram,
   Chennai-600 023.

+1CC to M/s.J.R.K.Bhavanantham, Advocate, SR.No. 53963

W.P.No.21893 of 2021
and
W.M.P.No.23097 of 2021

AK(CO)
B.VC (08/11/2021)