IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.5191 of 2017
and W.M.P.Nos.5480 & 5481 of 2017

E.Sumathy,
W/o.N.Muralikumaran .. Petitioner

-vs-

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

2.The Assistant Revenue Officer,
Corporation of Chennai,
Zone-IX, Ward No.121,
Nungambakkam, Chennai-600 034.

3.P.Vijayakumar,
S/o.Parameswaran Nair, .. Respondents
[R3-Impleaded vide order dated 21.08.2018 made in
W.M.P.No.24999 of 2018 in W.P.No.5191 of 2017]

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 10.02.2017 in Property ID No.09-121-03344-000 and quash the same in so far as it relates to the payment prior to the purchase of the property by the petitioner and consequently direct the 1st and 2nd respondents to permit the petitioner to pay the property tax from the 2nd half of the assessment year 2014-15 onwards i.e., subsequent to her purchase.

For Petitioner : Mr.T.Mohan
for Mr.R.Gopinath

For RR1 & 2 : Ms.Karthikaa Ashok,
Standing Counsel

ORDER

The relief sought for in the present writ petition is to quash the web portal demand made by the respondent-Corporation of Chennai on 10.02.2017, regarding the arrears of property tax to be paid by the writ petitioner.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the petitioner purchased the subject property on 25.03.2014 and she verified the arrears of property tax to be paid during the relevant point of time and thereafter, she started paying the property tax as per the demand made by the Corporation of Chennai.

3.It is contended by the learned counsel for the petitioner that the petitioner was unaware of the previous arrears to be paid by the vendor of the petitioner. However, on verification, the petitioner found that there was a web portal demand made by the respondent-Corporation of Chennai regarding arrears of property tax to be paid and thus, the petitioner is constrained to move the present writ petition.

4.The learned counsel for the petitioner states that the petitioner has paid the property tax till 2019 and there is no irregularity. With regard to the arrears of property tax prior to the subject property, the vendor of the petitioner alone is liable to pay and therefore, the learned counsel for the petitioner is of an opinion that even in case of settling the property tax, the petitioner must be provided with an opportunity to recover the same from the vendor.

5.This Court is of the considered opinion that the sale and purchase of property is no way connected by the property tax to be paid to the Corporation of Chennai with reference to the provisions of the Chennai City Municipal Corporation Act, 1919 (hereinafter referred to as "the Act"). Even in respect of the arrears, the subsequent purchaser of the property is bound to pay the property tax in the manner contemplated. In this regard, it is relevant to note Section 103 of the Act, which deals with 'property tax, a first charge on property and movables'. Section 103 of the Act denotes that the property tax on buildings and lands shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge upon the said buildings or lands and upon the movable property, if any, found within or upon such buildings or lands and belonging to the person liable to such tax.

6.When the provision contemplates that the property tax is a first charge on the property and movables, then the subsequent purchaser is also liable to settle the property tax to the Corporation. If at all any dispute arose between the vendor and the purchase, the same is to be resolved in the manner known to law and the respondent-Corporation of Chennai cannot go into the facts regarding such dispute.

7.The learned Standing Counsel for the respondent-Corporation made a submission that even in the Sale Deed, there must be a clause and it is for the petitioner to recover the previous arrears from the vendor and the Corporation is no way responsible for such disputes between the vendor and the purchaser. The learned counsel for the respondent-Corporation further states that even prior to the purchase of the subject property by the petitioner, receipts were made available in the web portal and such receipts would clarify the adjustments and arrears to be paid in respect of the subject property. However, the said contention is disputed by the learned counsel for the petitioner by stating that what was available in the web portal was only a receipt and it is not a demand, further, the receipt would not reveal the arrears of property tax. However, all these facts cannot be adjudicated in the present case. If at all there is any calculation dispute, the same is to be resolved by approaching the competent authority of the Corporation of Chennai and the petitioner is at liberty to do so.

8.As far as the payment of property tax is concerned, Section 103 of the Act is unambiguous that the property tax is a first charge on property and movables and therefore, the petitioner cannot be exonerated from the liability to pay property tax even with reference to the arrears of tax, which is to be paid prior to the purchase of the subject property.

9.Regarding the calculations and other aspects, the petitioner is at liberty to resolve the same by approaching the authorities competent by seeking clarification or otherwise. However, the property tax is liable to be paid as demanded by the Corporation and therefore, the web portal demand impugned in the present writ petition deserves no interference.

10.With the above observations, this writ petition stands dismissed. The petitioner is liable to settle the property tax dues within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

abr

To

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

2.The Assistant Revenue Officer,
Corporation of Chennai,
Zone-IX, Ward No.121,
Nungambakkam, Chennai-600 034.

+1cc to Ms.Karthikaa Ashok, Advocate SR.No.23914

+1cc to Mr.R.Gopinath, Advocate SR.No.23592

W.P.No.5191 of 2017

SR-II(CO)
GMY(17/06/2021)