IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.33592 of 2018
and
W.M.P.No.38981 of 2018

K.Purushotham ..Petitioner

Vs.

The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
603 209 ..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to dated 28.11.2018 issued in Property Tax No.020/005/00920 and consequent final notice dated 11.12.2018 Serial No. 2914 in respect of the Property bearing Door No. 40, NH 1, Pavandhar Street, Maraimalai Nagar of the respondent quash the same.

For Petitioner : Mr.S.Elamurugan

For Respondent : Mr.P.Srinivas

ORDER

The Final Notice dated 11.12.2018 and the order dated 28.11.2018, directing the petitioner to pay the property tax as determined by the respondent is under challenge in the present writ petition.

2. The learned counsel for the petitioner made a submission that the final order was issued, without issuing any notice to the writ petitioner as contemplated under Section 117-A of the Tamil Nadu District Municipalities Act. The respondent has re-assessed the property tax by enhancing the same and for such a re-assessment of the property tax, a notice is contemplated and the said notice has not been issued to the writ petitioner, enabling him to raise an objection.

3. The learned counsel for the petitioner further contended that the enhanced assessment of property tax is improper and not in consonance with the value of the building.

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Thus, the orders are liable to be set aside.

4. The learned counsel for the respondents raised an objection by stating that after verification working sheets were prepared and served on all the building owners, where the tax has been incorrectly levied. The notices for the revision of the tax for the building owned by M.Saraswathi were also prepared and sought to be served on the owner. But, the said owner has not received the same.

5. This Court is of the considered opinion that if at the owner has not received the same in person, the notice must be sent through the Registered Post with acknowledgment due and if it was returned, then it must be affixed in the said property by following the procedures as contemplated to serve notice in accordance with law. However, no such particulars are made available in the counter, enabling this Court to form an opinion that the notice was properly served to the petitioner before re-assessing the property tax in the subject property.

6. The very contentions in paragraph 8 of the counter affidavit, this Court has to draw the factual inference that in many buildings, the property tax had been incorrectly levied and there are large scale irregularities and illegalities in the matter of assessment of property tax more specifically, in Maraimalai Nagar. Such irregularities, are occurring on account of the lapses, negligence, dereliction of duty and corrupt activities in the matter of assessment of property tax by the competent officials. All these aspects are to be viewed seriously and the respondent must conduct an enquiry and review the property tax in respect of all such under valuations, irregularities, lapses, negligence, dereliction of duty and corrupt activities in the matter of assessment and re-assessment of property tax. The property tax is a Revenue, which is to be generated for the welfare of the public at large. In the event of any irregularity or illegality, the authorities competent cannot show any misplaced sympathy or leniency. Such illegality is nothing, but an offence and a misconduct under the Service Rules. Thus, all such officials, who all are responsible for such irregularities and illegalities, are to be dealt in accordance with law.

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7. The learned counsel for the respondent also made a submission that he has instructed the respondent to take action, if at all any irregularities in the matter of assessment and re-assessment of property taxes within the jurisdiction of the respondent Municipality.

8. As far as the writ on hand is concerned, the original assessment was done by calculating the constructed building for

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1500 sq.ft in the ground floor alone. Counter filed by the respondent reveals that the initiation of assessment of property tax of Rs.6,919/- per half year. The first floor of the building had not at all been assessed and during the inspection, it was found that the subject building consists of a building, which is used as a Kalyana Mandapam, admittedly, an area of 4700 sq.ft in both the ground and first floors, totalling 9400 sq.ft. Thus, it is evident that the tax has been assessed to only one sixth of the building.

9. It is most unfortunate that a Kalyana Mandapam is assessed for 1500 sq.ft and a property tax of Rs.6,919/- per half year was fixed. In the present case, Kalyana Mandapam, which is a commercial building, is assessed in such a manner and in this regard, the respondent has to conduct an enquiry and initiate appropriate action against all the officials, who are responsible and accountable.

10. With reference to the contentions as pointed out by the learned counsel for the petitioner, there is no proof to establish that a notice contemplated under the Statute has been served on the petitioner. Though an attempt has been made by the respondent, the notice was not served. This being the factum, the respondent is bound to serve notice to the writ petitioner for the purpose of determination of re-assessment of property tax in accordance with the provisions of the Act as well as the rules in force.

11. At this point of time, the learned counsel for the petitioner made a submission that the petitioner is willing to pay the property tax as assessed by the respondent. However, the petitioner is at liberty to pay the property tax as assessed in the impugned notice. However, a fresh inspection is to be conducted, in view of the fact that there are certain doubtful circumstances from the initial stage regarding the assessment of property tax of the petitioner's building. In view of this, this Court is inclined to pass the following orders:

(1) The respondent is directed to depute a responsible competent officials to conduct an inspection in respect of the building belongs to the petitioner and conduct the inspection by following the procedures as contemplated, within a period of two weeks from the date of receipt of a copy of this order.

(2) The respondents are directed to issue notice to the petitioner before conducting inspection, informing the date and time of inspection, enabling the petitioner or his representative to participate during the inspection.

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(3) After conducting an inspection, the respondent is directed to receive objections, if any, from the petitioner within a period of one week and thereafter, take a decision and pass appropriate orders, assessing the property tax to be paid by the writ petitioner in respect of the building owned by him.

(4) In view of the fact that the petitioner has made a submission that he is ready to pay the property tax as assessed by the respondent with reference to the impugned notice, the petitioner is directed to pay the property tax as per the impugned notice, within a period of two weeks from the date of receipt of a copy of this order. The balance tax, if any, is to be paid by the petitioner after making re-assessment. If the petitioner paid any excess property tax, then the respondent is liable to adjust the property tax in respect of future tax to be paid.

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

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Kak

To

The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
603 209

+1cc to Mr.S.Elamurugan, Advocate, S.R.No. 23814

W.P.No.33592 of 2018

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