BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.06.2021
CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI
W.A.[MD]No.573 of 2019
and
C.M.P.[MD]Nos.4736 & 7188 of 2019

1.S.S.Kamatchi Nathan
2.Kalavathi : Appellants/Petitioners

Vs.

1.Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.

2.The Commissioner of Town Panchayats,
Kuralagam,
Chennai – 600 108.

3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti,
Madurai District. : Respondent/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 12.04.2019, in W.P.[MD] No.6651 of 2019, so far as the direction to levy a special revision of property tax assessment on the expiry of five years from the date of first assessment and thereby allowing this Writ Appeal and thus allowing the Writ Petition in toto.

Prayer in WP(MD). 6651/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 20.02.219 passed by the third respondent enhancing the property tax for Assessment No.3396 from Rs. 5,124 to Rs.12,760 and for property tax Assessment No. 3397 from Rs.20,732, to Rs.51,832 and quash the same and consequentially to restore the water supply in Water Tax Assessment Nos. 372 and 417

For Appellant : Mr.J.Barathan
For Respondents 1&2 : Mr.R.Baskaran
Standing Counsel for Government
For Respondent No.3 : Mr.M.Rajarajan

JUDGMENT

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[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.]**

We have heard Mr.J.Barathan, learned Counsel appearing for the appellants, Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 & 2 and Mr.M.Rajarajan, learned Counsel appearing for the third respondent.

2.With the consent on either side, this Writ Appeal is taken up for disposal.

3.The appellants are the writ petitioners in W.P.[MD] No.6651 of 2019, wherein the appellants challenged the order passed by the third respondent namely, the Executive Officer of the T.Kallupatti Town Panchayat, revising the property tax assessment from Rs.5,214/- to Rs.12,760/-, in respect of Assessment No.3396 and Rs.20,732/- to Rs.51,832/-, in respect of Assessment No.3397 and consequently, to restore the water supply in respect of those two assessments. The learned Single Bench had allowed the writ petition and the appellants have no grievance about it. What the appellants are aggrieved is the directions contained in paragraph No.4 of the impugned order.

4.In our considered view, the issue which was before the learned Writ Court was whether the revision of assessment was proper. The Court came to the conclusion that the revision notice need to be interfered with. The third respondent, namely the Executive Officer of T.Kallupatti Town Panchayat, is not aggrieved by that portion of the order passed by the learned Writ Court. In such circumstances, we are of the view that the third respondent Town Panchayat should be allowed to issue fresh notice, by giving an opportunity to the assessee to put forth its assessment and thereafter assess the property to tax at the appropriate rate. Therefore, it will not be appropriate for the Court to intervene at this juncture and issue directions when the said dispute was not subject matter of controversy in the writ petition. Therefore, we are of the view that the directions contained in paragraph No.4 of the impugned order dated 12.04.2019, requires to be set aside.

5.Accordingly, the Writ Appeal is allowed and the observations and directions contained in paragraph No.4 of the impugned order in W.P.[MD]No.6651 of 2019 is set aside and the matter is remanded to the third respondent namely, the Executive Officer of the T.Kallupatti Town Panchayat, to issue a pre-revision notice in accordance with the relevant statute and Government Orders, affording an opportunity to show cause to the appellant and thereafter complete the assessment in accordance with law. It is made clear that insofar as the assessment which has already been done prospectively, the appellant should continue to pay the revised tax and there shall not be any default. The above directions be complied with within a period of two [2] weeks from the date of receipt of a copy of this judgment. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

Note: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant* concerned.

To

1.Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort St. George,Chennai.

2.The Commissioner of Town Panchayats,
Kuralagam, Chennai - 600 108.

3.The Executive Officer,
T.Kallupatti Town Panchayat,
T.Kallupatti,
Madurai District.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-20364[F] dated 28/06/2021)

JUDGMENT MADE IN
W.A.[MD]No.573 of 2019

28.06.2021

CN(05.07.2021) 3P 5C.