IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1638 of 2016
and C.M.P.No.8841 of 2016

N.Mohan Gandhi .. Petitioner

Vs.

The Commissioner
Salem Municipal Corporation
Hanging Garden
Salem-636 001. .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree dated 09.10.2012 made in C.M.A.No.13 of 2011 on the file of the Principal District Court, Salem, confirming the judgment dated 10.05.2011 passed in Taxation Appeal No.16 of 2010 on the file of the Taxation Appellate Tribunal, Salem Corporation.

For Petitioner : Mrs.Elizabeth Ravi
for Mr.P.Raja

For Respondent : Mr.D.Gopal
Government Advocate

ORDER

(The matter is heard through "Video-conferencing")

Civil Revision Petition is filed against the judgment and decree dated 09.10.2012 made in C.M.A.No.13 of 2011 on the file of the Principal District Court, Salem, confirming the judgment dated 10.05.2011 passed in Taxation Appeal No.16 of 2010 on the file of the Taxation Appellate Tribunal, Salem Corporation.

2.The petitioner is owner of the property bearing Door No.272/354, Bazaar street, Salem-1. The respondent assessed the property tax for the first half of 2008 - 2009 as Rs.18,401/- for the said property. The petitioner challenged the said assessment before the Taxation Appellate Tribunal, Salem Corporation, alleged that in column No.16 of special notice, half yearly tax has been arrived at Rs.1,996/- only, but in column No.17, it is stated that tax arrived after revision as

Rs.18,401/-. It is an erroneous fixation of property tax, the same has to be cancelled as null and void and respondent is not entitled to collect revised tax based on erred special notice. After hearing the respondent, the Tribunal dismissed the appeal as devoid of merits holding that error found in column No.16 is only a typographical error and the same can be rectified. Against the same, the petitioner filed C.M.A.No.13 of 2011 before the Principal District Court, Salem. The learned Principal District Judge, Salem, dismissed the appeal confirming the order passed by the Taxation Appellate Tribunal holding that the order of the Tribunal is valid as assessment made by the respondent is proper.

3.Against the said judgment and decree dated 09.10.2012 made in C.M.A.No.13 of 2011 on the file of the Principal District Court, Salem, confirming the judgment dated 10.05.2011 passed in Taxation Appeal No.16 of 2010 on the file of the Taxation Appellate Tribunal, Salem Corporation, the petitioner has come out with the present Civil Revision Petition.

4.The learned counsel appearing for the petitioner contended that the respondent having mentioned in column No.16 the amount payable is only Rs.1,996/- cannot say that it is only a typographical error. Even if it is a typographical error, the same can be corrected only after issuing notice to the petitioner as per the procedure. The tax fixed by the respondent is not according to the fair rent to be fixed as per the provision of Tamil Nadu Buildings (Lease and Rent Control) Act. The enhancement of tax from Rs.10,515/- to Rs.18,401/- is contrary to the law and prayed for allowing the Civil Revision Petition.

5.Per contra, the learned Government Advocate appearing for the respondent Corporation contended that the error in column No.16 is only typographical error. Prior to the year 2008-2009, half yearly tax was fixed at Rs.10,515/- and the respondent Corporation will not reduce the tax in the subsequent revision i.e., enhancement is only possible in the subsequent revision. The Tribunal and the learned Principal District Judge, Salem, considered that it is only a typographical error and rightly rejected the case of the petitioner and prayed for dismissal of the Civil Revision Petition.

6.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the entire materials on record.

7.From the materials on record, it is seen that property owned by the petitioner for which property tax has been assessed is a commercial building. The petitioner was paying half yearly tax at Rs.10,515/- as per the previous assessment year 1998-1999. After ten years, the property was assessed for property tax and half yearly tax was fixed at Rs.18,401/- from the half yearly 2008-2009. The petitioner challenged the same before the Tribunal as well as by way of appeal before the Principal District Court, Salem on the ground that in column No.16 of the special notice, tax payable by the petitioner was mentioned as Rs.1,996/- as per the worksheet. In view of the same, tax payable by the petitioner mentioned by the respondent as Rs.18,401/- in column No.17 is erroneous. The said contention is without any merits. It is not in dispute that from the half year of 1998-1999, tax payable by the petitioner for the said property was fixed at Rs.10,515/- and the petitioner paid till reassessment for the year 2008-2009 at Rs.10,515/-. The reassessment is made only after ten years of earlier assessment. The amount mentioned in column No.16 as Rs.1,996/- is obviously a typographical error, as on the date, the tax payable was Rs.10,515/-. It is not the case of the petitioner that tax was reduced from Rs.10,515/- to Rs.1,996/-. The respondent has reassessed the tax after ten years for commercial building of the petitioner from Rs.10,515/- to Rs.18,401/-. The contention of the petitioner that the respondent did not assess property tax as per the fair rent contemplated under Section 4 of Tamil Nadu Buildings (Lease and Rent Control) Act, cannot be raised in the present revision for the first time. The petitioner did not raise this issue before the Tribunal or the Principal District Court, Salem. The only issue raised by the petitioner before the Tribunal as well as the Principal District Court, Salem, is having mentioned in column No.16 as Rs.1,996/- payable as tax, in column No.17, they cannot fix Rs.18,401/- for half yearly tax. The Tribunal as well as the Principal District Court, Salem, considered the entire materials on record and held that amount mentioned in column No.16 is only a typographical error. There is no error in the said order of the Tribunal and the judgment of the Principal District Court, Salem, warranting interference by this Court.

8.For the above reasons, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.01.2022

Index : Yes/No
Internet: Yes/No
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V.M.VELUMANI,J.

Kj

To

1.The Principal District Judge
Salem.

2.The Taxation Appellate Tribunal

Salem Corporation.

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