HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY ,THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 24435 OF 2022

Between

Mrs. Chitra Bhargava, W/o. Rajiv Bhargava, aged about 61 years, Occ. Business, R/o. Flat No. 203, Grand Milieu Apt. Road No. 14, Banjara Hills, Hyderabad

...PETITIONER

AND

1. State of Telangana, Represented by Its Secretary Municipal Administration Secretariat Building Hyderabad.
2. The Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad represented by its Commissioner.
3. The Deputy Commissioner, GHMC, Khairatabad Circle 17

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pleased to pass an order to issue an appropriate writ, direction or order more particularly a writ of Mandamus declaring the action of the respondents in enhancing the property tax of the petitioner premises bearing Shop No. 9 and 9A, Ground Floor in Block A in Sharma Complex bearing municipal No. 6-3-455/9 in Survey Nos. 123, 124, 161 and 170 in Ward No. 6 and Block No. 3, situated at Punjagutta, Hyderabad bearing PTIN No. 1100614345 from Rs. 19,664/- to Rs. 49,644/- and raising a demand of Rs. 1,07,853/- towards arrears of the property tax for the years 2020-2021 and 2021-2022 without issuance of any notice to the petitioner and having issued the payment receipts in favor of the petitioner, as being illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to collect a sum of Rs 19,664/- towards the Property Tax for the premises bearing Shop No. 9 and 9A, Ground Floor in Block A in Sharma Complex bearing municipal No. 6-3-455/9 in Survey Nos. 123, 124, 161 and 170 in Ward No. 6 and Block No. 3, situated at Punjagutta, Hyderabad bearing PTIN No. 1100614345

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to stay the demand of Rs. 1,07,853/- towards arrears of the property tax for the years 2020-2021 and 2021-2022 and direct the respondents to collect a sum of Rs. 19,664/- towards the Property Tax for the premises bearing Shop No. 9 and 9A, Ground Floor in Block A in Sharma Complex bearing municipal No. 6-3-455/9 in Survey Nos. 123, 124, 161 and 170 in Ward No. 6 and Block No. 3, situated at Punjagutta, Hyderabad bearing PTIN No. 1100614342

Counsel for the Petitioner:SRI. PRANAY SOHINI

Counsel for the Respondents: GP FOR MCPL ADMN URBAN DEV

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 24435 OF 2022

ORDER:

This Writ Petition is filed seeking the following relief:

> " to pass an order, to issue an appropriate writ, direction or order more particularly a writ of mandamus declaring the action of the respondents in enhancing the property tax of the petitioner premises bearing Shop No. 9 and 9A, Ground Floor in Block 'A' in Sharma Complex bearing Municipal No. 6-3-455/9 in Survey Nos. 123, 124, 161 and 170 in Ward No.6 and Block No.3 situated at Punjagutta, Hyderabad bearing PTIN No. 1100614345 from Rs.19,664/- to Rs.49,644/- and raising a demand of Rs.1,07,853/- towards arrears of the property tax for the years 2020-21 and 2021-22 without issuance of any notice to the petitioner and having issued the payment receipts in favour of the petitioner, as being illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India and consequently, direct the respondents to collect a sum of Rs.19,664/- towards the property tax for the premises bearing Shop No. 9 and 9A, Ground Floor in Block 'A', in Sharma Complex bearing Municipal No. 6-3-455/9 in Survey Nos. 123, 124, 161 and 170 in Ward No.6 and Block No.3 situated at Punjagutta, Hyderabad bearing PTIN No. 1100614345..."

2. Sri Pranay Shohini, learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the subject premises which she has purchased by way of a registered sale deed. It is submitted that the petitioner is regularly paying the property tax to the respondents and the

petitioner has went to mee-seva centre to pay the property tax for the year 2022-23 and to avail an early bird payment rebate of 5%, the system has showed that the property tax of the petitioner has been enhanced from 19,664/- to Rs. 49,644/- without issuance of notice to the petitioner. It is also submitted that further the system has shown arrears of Rs.1,07,853/- for the years 2020-21 and 2021-22 for which the petitioner has already paid the property tax and the respondents had issued receipts to the petitioner. Learned counsel submits that the property tax of the petitioner has been enhanced with retrospective effect. According to the learned counsel, the respondents have no such power to revise the tax retrospectively and secondly, without issuing any notice, they cannot enhance the tax. Learned counsel submits that even as per the provisions of the Telangana Municipalities Act, 2019, the respondent municipality has no such authority. He relied on the order passed in ***Valluri Basavaiah Chowdary v. Vijayawada Municipal Corporation***[1], wherein this Court has held that the respondents cannot revise the tax of the previous year and levy the revised tax and it would amount to collecting the tax twice over for the same period. Further, learned counsel has relied on

[1] 2002 (1) ALD 276

the order of the Division Bench in Writ Petition No. 15002 of 1993 and batch, dated 29.12.1994. He submits that the Division Bench has elaborately discussed about the procedure that has to be followed while revising the tax. He also submits that without considering either the provisions of the Municipalities Act or the orders passed by this Court, the respondents have revised the tax.

3. Learned Standing Counsel for the respondent Corporation Sri N. Ashok Kumar filed a counter-affidavit. He submits that as per Section 225(4) of the Greater Hyderabad Municipal Corporation Act, 1955, if at any time it appears to the Commissioner that any person or property has been inadvertently omitted from the assessment records or inadequately or improperly assessed relating to any tax, or a clerical or arithmetical error is committed in the records maintained in relation to such assessment, he may assess or reassess or correct such errors, as the case may be. He submits that deriving source from this provision, the respondents have revised the tax. It is submitted that in respect of the petitioner's premises it is not totally assessed and only a part of it is assessed. Further, it is submitted that the judgments, which are relied on by the petitioner, are not applicable to the present

facts of the case for the reason that amendment to Section 225(4) was of the year 2013. Learned Standing Counsel submits that the respondents have already issued a notice and along with the counter he has filed the notice said to have been issued to the petitioner. The said notice is purported to have been issued under Section 220(2)(3) of the Act, as amended *vide* Act No. 25 of 1994 and therein they have mentioned several details about assessment number, name, door number, zone, sub-zone, locality name, existing property tax, revised, net arrival, reasons for revision, notice issue date, for financial year 2021-22 and then they have given the details of the tax. In the column of reasons for revision, it is mentioned as 'revision' and on that a signature was shown. According to the learned Standing Counsel, the said notice is served on the petitioner. He submits that when a notice was issued, if the petitioner has any objection, he shall file his objections and if he is aggrieved by any of the enhancement, revision of tax, he can approach the civil Court under Section 282 of the Act. He further submits that without doing such exercise, the petitioner has come up before this Court by filing this Writ Petition. Along with the counter, the respondents have categorically mentioned on what basis, the tax is enhanced from Rs.19,664/- to Rs.49,644/-.

4. The admitted facts are that till the year 2021-22, the petitioner was paying tax of Rs.19,664/- and the receipts that are filed by the petitioner shows that there are no arrears. When the petitioner wanted to pay the advance tax for 2022-23, he came to know that the tax is enhanced from Rs.19,664/- to Rs.49,644/- and also it shows arrears from 2018 onwards. The learned Standing Counsel relies on Section 225(4) (1) of the Act and submits that the Commissioner has every authority and jurisdiction to revise the tax. The very same clause specifies that 'no action shall be taken where it involves an increase in the assessment, unless the person affected is afforded an opportunity to show cause against the proposed action'. According to the learned Standing Counsel, what has been filed along with the counter is a notice which this Court is not able to accept and appreciate the said contention. By any stretch of imagination, the said piece of paper filed along with the counter cannot be termed as a 'notice'. The whole purpose of issuing a notice, as contemplated under Section 225(4)(2), is that the affected person should know the reason for enhancing and also it should also contain for what he should submit his objections and what is the time and date fixed for those objections, any personal hearing is there or not. The purported notice said to

have been issued in compliance of Section 225(4) of the Act do not contain any of the details and without following the said procedure, the respondent Corporation cannot say that they have followed the procedure under Section 225(4).

5. Hence, the Writ Petition is disposed of directing the respondents to issue a notice to the petitioner containing all the reasons, which the petitioner is supposed to know, for enhancement or revision of tax by giving a reasonable time to the petitioner to submit his objections. If necessary, personal hearing shall be given and thereafter, the respondents can pass appropriate orders. Till such time no coercive steps shall be taken. There shall be no order as to costs.

6. Consequently, the miscellaneous Applications, if any shall stand closed.

SD/-N.RAJAGOPAL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary Municipal Administration Secretariat Building, State of Telangana, Hyderabad.
2. The Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad represented by its Commissioner.
3. The Deputy Commissioner, GHMC, Khairatabad Circle 17
4. One CC to SRI. PRANAY SOHINI Advocate [OPUC]
5. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana. [OUT]
6. Two CD Copies
7. One Spare Copy

HIGH COURT

DATED:04/08/2022

ORDER

WP.No. 24435 of 2022

DISPOSING OF THE WP

WITHOUT COSTS.

ASM (9)
22/10/2022