IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

W.P.No.18725 of 2022 and
W.M.P.No.18117 of 2022

N.Srinivasan .. Petitioner

vs

1. The Commissioner
Greater Chennai Corporation
Ribbon Building, Chennai – 600 003.

2. The Assistant Revenue Officer
Zone – IX, Greater Chennai Corporation
No.1, Lake Area 4th Cross Street
Nungambakkam, Chennai – 600 034.

3. M/s.R.P.Rajarajan Associates
No.105, Dr.Radhakrishnan Salai
Mylapore, Chennai – 600 004
Rep. by its partner Mr.R.Parthiban.

4. The Manager
IDBI Bank Ltd., No.115, Anna Salai
Saidapet, Chennai 600 015.

[R4 impleaded vide order dated
09.12.2022 in W.M.P.No.21217 of 2022
in W.P.No.18725 of 2022] .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the demand notice in 09-121-00429-000 and 09-121-01003-000 dated 29.04.2022 issued by the 2nd respondent and quash the same insofar as the petitioner is concerned and directing the respondent to issue Trade License to the petitioner shop namely "Chennai Coffee" a New No.105, P.S.Sivasamy Salai, Mylapore, Chennai based upon the petitioner's application dated 16.05.2022.

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| For Petitioner | : Mr.K.K.Kannan |
| For Respondents | : Ms.P.T.Ramadevi<br>Standing Counsel<br>respondents 1 & 2 |

ORDER

The property tax demand notice issued by the Chennai Corporation in proceedings dated 29.04.2022 is sought to be quashed in the present writ petition.

2. The demand notice dated 29.04.2022 is sought to be assailed mainly on the ground that the petitioner is a tenant of a portion of the building and more so, the original owner borrowed loan from the bank and the bank has already attached the property by invoking the provisions of the SARFAESI Act. Now, the matter is subjudiced before the Debts Recovery Tribunal. It is needless to say that the tenant may also file an application before the Debts Recovery Tribunal under the amended provisions of the SARFAESI Act for appropriate remedy. However, the property tax is to be paid by the occupants under the provisions of the Chennai City Municipal Corporation Act.

3. The petitioner cannot evade payment of property tax to the Chennai Corporation, as the building is assigned to property tax by the Corporation. Under the provisions of the Act, if the owner fails to pay the property tax, then the occupants of the building is liable to pay the property tax and therefore, the Chennai Corporation issued demand notice to the writ petitioner to pay property tax.

4. The learned counsel for the petitioner states that the petitioner / tenant has already taken a decision to evict the premises within a period of three months. However, regarding the payment of tax for his occupation already made, the petitioner has to pay the property tax to the Chennai Corporation. If at all any grievance exists with reference to the assessment or otherwise, the petitioner has to prefer an appeal under the provisions of the Act for redressal of his grievances.

5. However, High Court cannot keep entertaining such writ petitions filed challenging the property tax demand nor adjudicate the issues for determination of quantum of property tax to be paid by the petitioner. The disputed facts regarding determination of property tax

cannot be adjudicated in a writ petition. Tax Appellate Tribunal is also functioning for adjudication of tax issues.

6. That being the factum, the petitioner is at liberty to approach the Tribunal. However, the authorities of Chennai Corporation is also empowered to initiate action for recovery of the property tax from the persons concerned. The learned counsel for the Chennai Corporation brought to the notice of this Court that the petitioner is not holding a valid trade license to run a business and as of now, he is running the business without any valid license and therefore, the authorities are empowered to initiate actions. It is not necessary to state that the person who is not possessing any valid trade license is not entitled to do business and thus, the respondents are at liberty to initiate appropriate action in the manner known to law.

7. With these directions, the writ petition is dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**05.04.2023**

Index : Yes/No
Neutral Citation : Yes/No

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**S.M. SUBRAMANIAM, J.**

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