IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM

The Honourable **MR.JUSTICE KRISHNAN RAMASAMY**

W.P.No.22137 of 2023
and W.M.P.Nos.21537 & 21538 of 2023

1.C.Gunaseelavasan
2.G.Muthulakshmi ... Petitioners

vs

1.The Director of Municipal Administration,
No.75, Urban Administrative Building,
Santhome High Road, MRC Nagar,
Raja Annamalaipuram, Chennai – 600 028

2.The Commissioner,
Coimbatore Corporation,
Town Hall, Coimbatore – 641 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the records of the second respondent pertaining to the tax assessment made in the name of the petitioners, in tax assessment No.162/011/905366 date Nil entered in the (monthly register page No.) M.L.P.No.108/Vol-1/2021-2022, on the records of the second respondent corporation, and to quash the same and to consequentially direct the respondents to accept the sum of Rs.1629/- (Rs.1429/- + 200/-) as per their property tax assessment book bearing No.M.L.Page No.108/21-22/Vol-I dated 26.02.2022, signed on 06.04.2022, issued to the petitioner and to pass such further orders.

For Petitioner : Mr.G.K.Muthukumar

For Respondents : Mr.D.Ferdinand
Standing counsel for R2

Mr.K.Tamilvendan GA for R1

ORDER

This Writ Petition has been filed challenging the order made by the second respondent relating to the tax assessment made in favour of the petitioners in assessment No.162/011/905366, dated Nil and to quash the same and consequently direct the respondents to accept the assessment order passed in M.L.Page No.108/21-22/Vol-I., dated 26.02.2022.

2. The specific case of the petitioners is that the petitioners have obtained a residential building construction license, dated 13.10.2020 from the second respondent Corporation to put up a residential house measuring to an extent of 1574 sq.ft., in Saravanampatti Village, Coimbatore District. After completion of the construction, by application dated 13.10.2021, the

petitioners had applied to the second respondent Corporation for property tax assessment of the said residential house. Thereafter, on 22.11.2021 the second respondent inspected the building and by letter dated 29.11.2021, directed the petitioners to pay the charges towards additional construction put up by the petitioners. After making payment by the petitioners on 31.01.2022, the second respondent Corporation issued a property tax assessment book in the name of the petitioners bearing M.L.Page No.108/21-22/Vol.I, dated 26.02.2022, which was signed on 06.04.2022. In the said assessment book, property tax is assessed at Rs.1429/- for the building with effect from 01.10.2021 along with Rs.200/- towards penalty for the same period. Subsequently the second respondent by the impugned order bearing M.L.P.No.108/Vol-I/2021-2022, has enhanced the actual rent (Annual building value) and the half yearly tax to be paid by the petitioners to Rs.39,390/- and Rs.5,535/- from Rs.12,991/- and Rs.1,429/- as was assessed on 26.02.2022. Challenging the same, the present Writ Petition has been filed.

3. When the Writ Petition was entertained by this Court on 27.07.2023, an interim order was passed by stating that the petitioners were directed to pay 50% of the amount demanded towards the respective half

yearly tax till date.

4. The learned counsel appearing for the petitioner would submit that the present tax increase of about 400% is against the prescribed Government Order in G.O.No.53, dated 30.03 2022, and the assessment book dated 26.02.2022, which came to be signed only on 06.04.2022 and therefore, the said G.O., also will not apply to the petitioners and they cannot be penalized for the delay of the respondents for issuing tax assessment book. Further, the learned counsel would submit that no opportunities have been given to the petitioners before revising the assessment order. Therefore, the learned counsel appearing for the petitioners would submit that the second property tax assessment fixed for a sum of Rs.5,535/- for the period effective from 01.10.2021 is illegal, without jurisdiction, arbitrary and without application of mind and prays before this Court to set aside the impugned order.

5. In response to the submissions of the learned counsel for the petitioners, the learned Standing counsel appearing for the respondent Corporation fairly submits that there is some calculation error in computation of the annual value of the property as well as determination of the property tax and therefore, he would submit that appropriate orders may

be passed.

6. I have heard the learned counsel appearing for the parties and perused the materials placed on record.

7. It is not in dispute that the property has been inspected by the officials of the second respondent Corporation and on 26.02.2022, the respondent Corporation after inspection, has fixed the annual value of the property and the half yearly tax as Rs.12,991/- and Rs.1429/- respectively. It is not known the second respondent without assigning any proper reason as to how the annual value of the property tax determined and arrived at half yearly tax, and had issued impugned assessment order. Admittedly, the fact that nothing would be reflected in the assessment order and it seems to have been 400% increased the property tax compared to previous original assessment and therefore, this Court holds that the impugned order suffers from total non-application of mind.

8. Therefore, in view of the submission of the learned Standing counsel appearing for the respondent Corporation as well as the learned counsel appearing for the petitioners, this Court is inclined to set aside the

impugned assessment proceedings passed by the second respondent in ML P.No.108/Vol I/2021-2022, whereby fixing the building annual value as Rs.39,390/- and determining the half yearly tax as Rs.5,535/-.

9. Accordingly, the present Writ Petition is allowed, the impugned assessment order bearing MLP.No.108/Vol-I/2021-2022 is set aside and the matter is remanded back to the second respondent-Corporation for re-assessment who in turn has to take the base value and that should be the existing value, and the same shall be done after affording an opportunity of hearing to the petitioners and after considering the reply/objections filed by the petitioners. Further what are all the amount already paid by the petitioners in view of the interim order passed by this Court on 27.07.2023, the same may be adjusted for the arrears if any or future dues. It is needless to say that the petitioner shall continue to pay half yearly property tax, which the petitioners used to pay before revision without any default. The above said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.10.2023

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Index/ Yes/No
Speaking order: Yes/No
Neutral citation: Yes/ No

To

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KRISHNAN RAMASAMY,J.,

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