



W.P. (MD) No. 1569 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVU

W.P. (MD) No. 1569 of 2023

and

W.M.P. (MD) Nos. 1433 and 1434 of 2023

Sivagami

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the respondent's provisional demand notice dated 07.01.2023 in connection with New Assessment No. 115/055/901525 and quash the same and consequently directing the respondent to follow the relevant provisions of law before re-assessment by changing the property tax from commercial to domestic within time stipulated by this Court.

For Petitioner : Mr. RM.Arun Swaminathan

For Respondent : Mr. S.Vinayak



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ORDER

Heard Mr. RM.Arun Swaminathan, Learned Counsel for the Petitioner and Mr. S.Vinayak, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings dated 07.01.2023 issued by the Respondent, which is evidently a demand notice calling upon the Petitioner to pay revised amount of property tax for the property for the building at Door No. 23, Tamil Sangam Road, Madurai belonging to the Petitioner. It is needless to point out here that if the Petitioner disputes the said claim of the Respondent, she would have to state her objections by way of reply and in the event of any adverse decision, the same could be challenged, if necessary, before the proper forum following the prescribed procedure under the relevant statutory provisions.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in *Union of India -vs- Kunisetty Satyanarayana* [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it



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reaches its logical conclusion. It would be useful here to extract the relevant

passages from the said decision which read as follows:-

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh [JT 1995 (8) SC 331], Special Director -vs- Mohd. Ghulam Ghouse (AIR 2004 SC 1467), Ulagappa -vs- Divisional Commissioner, Mysore [2001(10) SCC 639], State of U.P. -vs- Brahm Datt Sharma (AIR 1987 SC 943) etc. 14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or chargesheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance. 15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should



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not ordinarily be exercised by quashing a show-cause notice or charge sheet. 16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

In such circumstances, there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Respondent, who is bound to deal with the same before coming to any ultimate conclusion and there is no necessity for the Court to interfere at this pre-mature stage of the matter.

4. In view of the same, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition reserving the rights of the Petitioner to raise all contentions by way of reply to the demand notice and in the enquiry before the concerned authority before any action is taken against him and he has made an endorsement to that effect in the court record. Though obvious, it is made clear that no view has been expressed by the court on the merits of the controversy involved in the matter.

In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed.



No costs.

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30.01.2023

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Index : Yes/No

Note: Issue order copy by 16.06.2023.

To

The Commissioner,
Madurai Corporation,
Madurai.



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P.D.AUDIKESAVALU,J.

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