



W.P (MD) No. 2912 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 2912 of 2023

and

W.M.P. (MD) Nos. 2706 and 2708 of 2023

S.Giridharan

... Petitioner

Vs.

The Commissioner,
Kovilpatti Municipality,
Kovilpatti,
Thoothukudi District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned demand notices dated 05.01.2023 issued by the respondent in respect of shop bearing Door No.163 situated in main Road, Kovilpatti, Thoothukudi District and quash the same as illegal and consequently direct the respondent to assess the above properties under section 87 of Tamil Nadu District Municipalities Act.

For Petitioner : Mr. R.Pon Karthikeyan

For Respondent : Mr. P.Srinivas,
Standing Counsel

O R D E R



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Heard Mr. R.Pon Karthikeyan, Learned Counsel a for the Petitioner and Mr. P.Srinivas, Learned Standing 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 05.01.2023 sent by the Respondent, which is evidently a demand notice calling upon the Petitioner to pay the arrears of property tax aggregating to Rs. 6,342/- for the period from I/2021-2022 to II/2022-2023.

3. Learned Counsel for the Respondent contends that if the Petitioner has any objection for the amount of property tax claimed in the impugned order, he would have to submit his representation with supporting documents in that regard, which would be duly considered by the concerned authority before taking further proceedings for recovery of that amount from him.

4. 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



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

passages from the said decision which reads 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 charge-sheet 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



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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 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.”

Having due regard to the aforesaid legal position, as 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, there is no necessity for the Court to interfere at this pre-mature stage of the matter.



5. In such circumstances, without expressing any view on the merits of the controversy involved in the matter, the Writ Petition is disposed on the following terms:-

- (i) it shall be incumbent upon the Petitioner to submit his explanation to the demand notice, which is impugned in the Writ Petition, if not done already, to the Respondent by 31.08.2023;
- (ii) if necessary, physical measurement of land and buildings shall be taken by an authorized engineer and/or surveyor of the Respondent in the presence of the Petitioner or his authorized representative, after due notice of such inspection and a working-sheet showing the calculation with specific details of the annual value for the property shall be furnished to him;
- (iii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain his position in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised by the Petitioner on merits and in accordance with law and the decision taken communicated under written acknowledgment;



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(v) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law;

(vi) consequently, the connected Miscellaneous Petitions are closed; and

(vii) there shall be no order as to costs.

21.02.2023

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NCC : Yes/No

Index : Yes/No

Note: Issue order copy by 14.08.2023.

To

The Commissioner,
Kovilpatti Municipality,
Kovilpatti,
Thoothukudi District.

Copy to

S.Giridharan,
S/o. Shenbagamoorthym,
No. 6, Shanthi Nagar,
Kadavanthara,
Ernakulam – 20,
Kerala State.

Presently at
Giri Nivas,
Kadalaiyur Road,
Kovilpatti Town,
Thoothukudi District.



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P.D.AUDIKESAVALU,J.

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