BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.04.2023**

CORAM

THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

W.P.(MD) No.3097 of 2023
and
W.M.P.(MD) Nos.2881 and 2882 of 2023

T.S.Chitra ... Petitioner

/vs./

The Commissioner,
Kumbakonam City Municipal Corporation,
Kumbakonam Municipal Corporation Building,
Thiruvidaimaruthur Road,
Kumbakonam,
Thanjavur District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for all records pertaining to the Property Tax demand notice dated 16.11.2022 issued by the respondent for Old Assessment No.105/34848 and New Assessment No.105/041/900328 for the building Door No.86, T.S.No.1099, Palaniaandavar Sannathi Street, Kumbakonam, demanding Rs. 1,63,176/- per annum 2022-2023 for full year based on General Revision notice and to quash the same as illegal contrary to law and directing the respondent not to collect enhanced property tax of Rs. 1,63,176/-/- for 2022-2023 1st and 2nd half.

For Petitioner : Mr.M.V.Santharaman

For Respondent : Mr.M.Rajarajan

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorarified Mandamus calling for all records pertaining to the Property Tax demand notice dated 16.11.2022 issued by the respondent for Old Assessment No. 105/34848 and New Assessment No.105/041/900328 for the building Door No. 86, T.S.No.1099, Palaniaandavar Sannathi Street, Kumbakonam, demanding Rs. 1,63,176/- per annum 2022-2023 for full year based on General Revision notice, quashing the same as illegal contrary to law and directing the respondent not to collect enhanced property tax of Rs.1,63,176/-/- for 2022-2023 1st and 2nd half.

2.It is the case of the petitioner that she is the absolute owner of the property in question, where she has constructed a Kalyana Mandapam. The same is assessed by the respondent under New Assessment No.34848/W37 at Rs. 40,794/- per half year. The petitioner had filed a suit O.S.No.399 of 2005 for declaration that the assessment was invalid before the Principal District Munsif, Kumbakonam. This suit was dismissed on 23.04.2008, as against which the petitioner had filed an appeal in A.S.No.52 of 2008. The appeal was allowed by judgment and decree dated 09.03.2010, in and by which it was declared that the enhanced Tax Assessment of Rs.40,794/- was invalid and could not be enforced under law and permanent injunction was also granted restraining the respondent herein from collecting the tax.

3.The petitioner would submit that all of a sudden, she has been served with the demand notice both for the underground drainage and property tax for the period from 2008-2009 to 2021-2022 on 20.05.2021. The notice has been sent without any calculation and suppressing the earlier receipts. The petitioner had approached the respondent, who informed her that it is only a formal notice and the petitioner need not reply to the same. Thereafter, the Municipality was converted into a Corporation and the impugned demand notice came to be issued, in which tax at the rate of Rs.70,068/- per half year and the arrears of Rs. 4,78,968/- were claimed. The petitioner would submit that none of the earlier orders have been taken note of and this enhancement has been issued without notice to the petitioner and without hearing her. Therefore, there is clear violation of the principles of natural justice.

4.The learned counsel appearing for the respondent would fairly submit that no notice was issued before the enhancement.

5.Considering the same and without going into the merits of the case, the Writ Petition is allowed. The impugned demand notice dated 16.11.2022 is set aside and the matter is remitted back to the respondent to issue notice to the petitioner and after hearing her objections, he shall reassess the property tax within a period of 8 weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

27.04.2023

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
mm

P.T.ASHA, J.

mm

W.P.(MD) No.3097 of 2023

27.04.2023