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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.04.2023**

CORAM

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

W.P.(MD) No.5162 of 2020
and
W.M.P.(MD) No.4500 of 2020

S.P.Saravana Raja ... Petitioner

/vs./

The Commissioner cum Special Officer,
Rajapalayam Municipality,
T.P.Milla Road,
Rajapalayam,
Virudhunagar District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the respondent pertaining to its final notice bearing No.03 dated 29.02.2020 and to quash the same and directing the respondent not to collect property tax in respect of Door No.78/2A and 178/3A which is not in exist and solid waste user charges of Rs.6,000/- per year with regard to the building in Door No.178 of Lekshmipuram Street, Rajapalayam Municipality, Virudhunagar District.

For Petitioner : Mr.S.C.Herold Singh
For Respondent : Mr.N.Dilip Kumar
Standing Counsel

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ORDER

The petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking the issue of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent pertaining to its final notice bearing No.03 dated 29.02.2020, quashing the same and directing the respondent not to collect property tax in respect of D.Nos.78/2A and 178/3A, which is not in exist and solid waste user charges of Rs.6,000/- per year with regard to the building in D.No.178 at Lekshmipuram Street, Rajapalayam Municipality, Virudhunagar District.

2.The short facts, which have been set out by the petitioner in his affidavit filed in support of this writ petition, are that he is the owner of the property comprised in S.Nos.53/1, 53/2 and 53/3 in Ward No.28, Rajapalayam Municipality, Virudhunagar District. The property belonged to his father, who had put up a construction in the said property. Thereafter, under a settlement deed dated 12.02.2016, his father had settled the property to him and he has been in possession and enjoyment of the same since then.

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3.It is his case that the building consists of ground floor, which was used as a godown and the first floor was used as a residence. The building consists of three door numbers, D.Nos.178, 178/2 and 178/3, for which he has been assessed to property tax. In respect of the property bearing D.No.178, the petitioner has paid the property tax of Rs.3,702/- for the financial year 2018-2019 and is due the property tax for the financial year 2019-2020. As regards D.Nos.178/2 and 178/3, the petitioner has no arrears of property tax. He does not own any building bearing D.Nos.178/2A and 178/3A. However, the respondent without issuing any prior notice or affording an opportunity, by the impugned notice dated 29.02.2020, proposes to collect solid waste user charge of Rs.4,500/- for D.No. 178 for the financial year 2017-2018, Rs.6,000/- for the financial year 2018-2019 and Rs.6,000/-. As such in total Rs.16,500/- was imposed by the respondent towards solid waste charges for D.No.178 without providing opportunity to the petitioner. In total, the respondent imposed a sum of Rs.20,202/- including the property tax for the financial year 2019-2020. Aggrieved by these proceedings, the petitioner is before this Court primarily on two grounds, a) that there is no D.Nos.178/2A and 178/3A and b) the impugned notice has been passed without any notice and without affording an opportunity to the petitioner.

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4.The learned Standing Counsel for the respondent was not able to show proof that before passing the impugned order, the respondent had put the petitioner on notice about the collection of these arrears. In the light of the above and considering the fact that the impugned notice has been passed without following the principles of natural justice, the same is set aside.

5.In the result, the Writ Petition is allowed and the matter is remanded back to the respondent to pass speaking orders after issuing fresh notice calling for an enquiry and affording personal hearing to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner shall cooperate with the enquiry. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.04.2023

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

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P.T.ASHA, J.

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