BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.7539 of 2021
and
W.M.P.(MD).No.5708 of 2021

Haji M.K.M.Ameer Hamsa ... Petitioner

Vs.

The Commissioner,
Cumbum Municipality,
Cumbum 625 516,
Theni District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice of respondent in Na.Ka.No. 2321/2021/A1 dated 21.01.2021 and consequent impugned distraint orders of respondent of even dated. 26.02.2021 for the properties of petitioner in ward No.3, Door No.242A, L.F.Road, Cumbum, Theni District in respect of Assessment No.122/16033 and Assessment No. 122/008/00514 respectively, quash the same and consequently direct the respondent herein to collect the property tax prevailed before revised tax as per G.O Ms. No.150 dated 19.11.2019 issued by the Municipal Administration and water supply (M.A.IV) Department, Chennai.

For Petitioner : Mr.K.Appadurai

For Respondent : Mr.K.Hemakarthikeyan

O R D E R

This Writ Petition has been filed challenging the impugned demand notice issued by the respondent dated 21.01.2021 and the consequent impugned distraint order that was issued by the respondent on 26.02.2021 and for a consequential direction to the respondent to collect the property tax that prevailed before the revision tax as per the G.O.Ms. No.150, Municipal Administration and water supply (M.A.IV) Department, dated 19.11.2019.

2. The case of the petitioner is that he owns two properties. Insofar as the first property is concerned, he is paying the property tax at the rate of Rs.348/- (Rupees Three Hundred and Forty Eight only) per half year. For the other property, he is paying the property tax at the rate of Rs.230/- (Rupees Two Hundred and Thirty only). The grievance of the petitioner is that all of a sudden, the demand notice was issued by the respondent by revising the property tax to Rs.11,594/- (Rupees Eleven Thousand Five Hundred and Ninety Four only) for the first property and

Rs.853/- (Rupees Eight Hundred and Fifty Three only) for the second property. According to the petitioner, this revision in property tax is opposed to the G.O.Ms. No.150, Municipal Administration and water supply (M.A.IV) Department, dated 19.11.2019, wherein, there is a direction to collect the old property tax only and to adjust the revised tax collected during 2018-2019 for the assessment year 2019-2020. That apart, the petitioner alleges that this revision of property tax was made without putting the petitioner on notice and consequently, the impugned distraint order has also been passed by the respondent. The same has been put to challenge in the present Writ Petition.

3. The respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

> "*3. At the outset, I submit that the petitioner has misconstrued that this respondent has revised/enhanced the property tax from the old amount to new amount as per the G.O. (Ms) No. 73, Municipal Administration and Water Supply Department, dated 19.07.2018 which was subsequently withhold by the Government as per the G.O. (Ms) No. 150, Municipal Administration*

and Water Supply Department, dated 19.11.2019. I submit that this respondent has not revised/enhanced the property tax of the petitioner as averred by him in his affidavit. I submit that in fact, the petitioner herein has demolished his building and constructed a new commercial building in D.No.242A, L.F Road and constructed additional floor (First Floor) in his residential building at D.No.97A-1, Chekkadi Street, Cumbum. It is pertinent to note that this respondent has levied the new property tax as per the request made by the petitioner in his letter dated 09.09.2020.

4. The averments set out in paragraph Nos. 2 & 3 of the petitioner's affidavit are denied as false and I submit that it is true that the petitioner is having the property in D.No.242A, L.F Road, Ward No.3 and D.No.97A-1, Chekkadi Street. Ward No.8, in Cumbum Town. I submit that the petitioner had an old house to an extent of 100 Square feet in D.No.242A, L.F Road in Ward No. 3, Cumbum Town and the petitioner had made an application for a new commercial building in the above said place and plan approval for building was granted by this respondent by his proceedings *dated 08.07.2019 for commercial building to a extent of 736 Sq.feet in Ground Floor and 736 Sq.feet in first floor and totally to an extent of 1472 Sq.feet. I submit that however the petitioner had contrary to the plan approval had constructed a building to an extent of 774 square feet RCC building and constructed 1188 square feet AC Sheet building and totally to an extent of 1962 square feet building which is commercial building and in the said building two wheeler show room is running in the name and style of "KPP Motors" and for the above said new commercial building, this respondent had levied the property tax for a sum of Rs.11,594/- per Half Year.*

5. Likewise, the petitioner had constructed additional floor (first) to an extent of 540 square feet in D.No.97A-1, Chekkadi Street, Ward No.8, in Cumbum Town for which no plan approval was obtained by the petitioner. I submit that for the new construction of the residential building, this respondent has fixed the property tax as per the annual rental value as well as land value prevailing in the area and after deducting the discount for the building and fixed the property tax for the building (540 Sq.feet) as Rs.853/- per *half year. I submit that if this respondent had enhanced the property tax as per new G.O, naturally the property tax for the ground floor will be increased and the petitioner has to challenge the same, but failed to do so. Its seems that there is no enhancement of the property tax as averred by the petitioner and the present property tax was levied for the new building and the petitioner had misconstrued the same. I submit that the Circular issued by the Director of Town Panchayat, Kuralagam, Chennai is not applicable to this respondent as this respondent is a municipality."*

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. The petitioner has filed the present Writ Petition mainly on the ground that there has been revision / enhancement of the property tax and the same is opposed to G.O.Ms.No.150, Municipal Administration and water supply (M.A.IV) Department, dated 19.11.2019. That apart, according to the petitioner, there was an earlier revision made in the year 2017-2018 and thereafter, yet another revision has been made which is

illegal. However, on going through the counter affidavit filed by the respondent, it is seen that there has been no revision or enhancement of the property tax. The petitioner is having one commercial building for which the sanction was given initially to put up 736 Square Feet in the ground floor and 736 Square Feet in the first floor. The petitioner has subsequently constructed a building to an extent of 774 Square feet in the ground floor and 1188 Square Feet in the first floor and the total construction is to the tune of 1962 Square Feet. This was taken into consideration by the respondent and the property tax was fixed at Rs.11,594/- (Rupees Eleven Thousand Five Hundred and Ninety Four only) per half year.

6. Insofar as the other building is concerned, the petitioner had constructed an additional floor to an extent of 540 Square Feet. This was taken into consideration and the property tax was fixed at Rs.853/- (Rupees Eight Hundred and Fifty Three only) per half year.

7. In view of the above, it is quite apparent that there has been no revision / enhancement of property tax and what the respondent has

done is that they had taken into consideration the additional construction that has been put up by the petitioner and they accordingly fixed the property tax and consequently, the property tax was also demanded from the petitioner. In view of the same, there is no escape for the petitioner from avoiding to pay the property tax and the petitioner has to necessarily pay the property tax for the construction that he was put up.

8. This Court does not find any ground to interfere with the impugned demand notice and the distraint order passed by the respondent. Therefore, there are no merits in this Writ Petition and accordingly, the same stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

13.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg

To
1.The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.

2.The Tahsildar,
Thiruchuli Taluk, Virudhunagar District.

N.ANAND VENKATESH, J.

tsg

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