IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.Nos.2505 and 2593 of 2021
and CMP Nos.16312 and 16892 of 2021

B.Ramachandra Babu .. Appellant in W.A.No.2505/2021

B.Rajeondra Babu .. Appellant in W.A.No.2593/2021

-vs-

1. The Government of Tamil Nadu,
   Rep. by its Secretary,
   Municipal Administration and Water Supply Department, Fort St. George,
   Chennai 600 009.

2. The Commissioner,
   Chengalpattu Municipality,
   Kancheepuram District. .. Respondents in both WAs.

Prayer: Appeals filed under Clause 15 of the Letters patent against the order dated 22.06.2021 passed in W.P.No.28348 of 2018 and order dated 19.04.2021 passed in W.P.No.29768 of 2018 on the file of this Court.

For the Appellant in both WAs. : Mr.R.Rajarajan

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| For the Respondents in both WAs. | : | Mr.T.Srinivasan Spl. G.P. for R-1 |
| | : | Mr.P.Srinivas Stdg. Counsel for R-2 |

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COMMON JUDGMENT

(Judgment of the Court was made by R.Suresh Kumar, J.)

Since the issue raised in both the writ appeals is one and the same, the writ appeals were heard together and are disposed of by this common judgment.

2. The appellants have challenged the notices with regard to enhancement of property tax by the second respondent-Municipality and filed the two writ petitions.

3. The learned Judges, who have disposed of those writ petitions through the respective impugned orders dated 22.06.2021 and 19.04.2021, have dismissed the writ petitions on the ground of non-exhausting of appellate remedy.

4. We have gone through the orders impugned where the learned Judges have held that before enhancing the property tax,

notices had been issued and thereafter, final notices also had been issued enhancing the property tax and demanding to pay the tax arrears. Against such orders, there is a appellate remedy available before the appellate authority and without approaching the appellate authority, since the writ petitions had been filed, it cannot be entertained and therefore, on that sole ground itself, both the writ petitions were dismissed.

5. Against those orders, when these intra-court appeals were filed, a Co-ordinate Bench of this Court had granted respective interim orders by imposing a condition that the appellants shall deposit 50% of the property tax arrears to the credit of the writ appeal account, which, according to the learned counsel for the appellants as well as the respondent-Municipality, had been complied with by the appellants.

6. We have heard Mr.R.Rajarajan, learned counsel for the appellants, Mr.T.Srinivasan, learned Special Government Pleader for the first respondent and Mr.P.Srinivas, learned standing counsel for the second respondent-Municipality.

7. The learned standing counsel appearing for the respondent-Municipality would submit that the learned Judge has only directed the appellants to go before the appellate authority, where, if at all, they have to prefer an appeal, they have to pay the entire tax arrears including the enhanced tax, therefore, instead of paying the tax arrears and filing the appeal, they have chosen to come before this Court by filing the writ petitions. Hence, the decision taken by the learned Judges, which is impugned herein, is to be sustained, he contended.

8. However, Mr.Rajarajan, learned counsel appearing for the appellants would contend that before making the enhancement, no proper procedure had been adopted and even though stay has been granted by this Court at the time of entertaining the appeals, once again further enhancement also had been made by the respondent-Municipality which is contempt in nature. Hence, the learned counsel appearing for the appellants seeks indulgence of this Court to interfere with the orders passed by the learned Judges which are impugned herein directing or relegating the parties to go before the appellate authority.

9. We have considered the said rival submissions made by the learned counsel for both sides and perused the materials placed before this Court.

10. As has been rightly held by the learned Judges of the Writ Court, since there has been an effective statutory appellate remedy available, the appellants ought to have exercised that option by availing the appellate remedy. Without any plausible reason, as a matter of course, this Court would not entertain the writ petitions invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India when there has been an alternate efficacious statutory appellate remedy available for the litigant. This position has been settled in number of decisions of the Hon'ble Supreme Court also. Therefore, there is no infirmity in the orders of the learned Judges dismissing those writ petitions relegating the parties to go before the appellate authority. Hence, the orders impugned are to be sustained.

11. Insofar as the payment of arrears of the property tax including the enhanced property tax is concerned, the appellants are liable to pay the entire arrear of tax before enhancement. Insofar as

the difference amount due to enhancement is concerned, we deem it appropriate to direct the appellants to pay 25% of the difference, that is, out of the enhanced property tax, over and above the amount already deposited, as a condition precedent to entertain the appeal to be filed before the appellate authority. If such conditions are complied with by the appellants and the appeal is filed, that shall be entertained and be decided by the appellate authority after giving an opportunity of being heard to both sides at the earliest thereafter.

12. With these directions, the writ appeals are disposed of. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (C.S.N., J.)
05.09.2024

Index : Yes/No
NC : Yes/No

sra

To

1. The Secretary to Government of Tamil Nadu,
   Municipal Administration and Water
   Supply Department, Fort St. George,
   Chennai 600 009.

2. The Commissioner,
   Chengalpattu Municipality,
   Kancheepuram District.

R.SURESH KUMAR, J.
AND
C.SARAVANAN,J.

(sra)

W.A.Nos.2505 and 2593 of 2021

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