IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27502 of 2021
and
W.M.P.Nos.29028, 29029 & 29030 of 2021

L.R.Raja ... Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

2.The Executive Engineer,
Greater Chennai Corporation Zone – XIV,
Perungudi,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

3.The Assistant Engineer,
Greater Chennai Corporation Zone – XIV,
Perungudi,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091.

4.The Assistant Revenue Officer,
Greater Chennai Corporation Zone – XIV,
Perungudi,
No.6/64, Puzhuthivakkam Main Road,
Chennai – 600 091. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondents 1 to 4, with reference to assessment and consequent property tax demand card of zone – XIV, Ward No.169, in Bill No.12261 of the Assistant Revenue Officer in a sum of INR.1,08,340/- per half yearly beginning from II/2013-14 and all further claims cumulatively made in sum of INR.15,28,380/-, as on I/2021-2022 dated 03.09.2021 and in terms of online in a sum of INR.16,58,742/- as on 25.11.2021, II/2021-2022, on account of the impugned building bearing door no's 922 & 923, Bazar Road, Velachery-Madipakkam Main Road, Puzhuthivakkam, Chennai – 600 091 and quash the same as null and void and consequently direct all the respondents to return the sum of INR.2,16,680/- already paid vide receipt Nos.18313 dated 11.11.2013 and 102449 dated 30.09.2014, together with applicable interest.

For Petitioner : Mr.C.Johnson

For Respondents : M/s.K.Aswini Devi
Senior Standing Counsel

ORDER

The petitioner had built a property and at the request of the petitioner, assessment was completed after issuance of Assessment Notice dated 06.11.2013, pursuant to which Assessment made. The petitioner has also paid property tax for the second half of 2013-2014 and first half of 2014-2015.

2. It appears that on account of the deviations, the CMDA had issued lock and seal order on 12.09.2014. Therefore, the petitioner has sought for refund of the tax paid for the above mentioned period amounting to Rs.2,16,618/-.

3. The counter affidavit that has been filed before this Court does not clearly bring out the actual date of lock and seal. However, it is evident that such a notice was issued on 12.09.2014. The petitioner has however requested for refund of the aforesaid amount paid towards the property tax. The question is whether the petitioner is entitled for refund of the property tax that was paid pursuant to the assessment paid by the

respondents. After the property was constructed, the petitioner had occupied the property and requested the respondents to assess the property pursuant to which Assessment was made on 06.11.2013, which resulted in payment of property tax for the above mentioned period. As per Section 105 of the Chennai City Municipal Corporation Act, 1919 when any building whether ordinarily has been let out or occupied by the owner himself has been kept vacant and unlet for thirty or more consecutive days in any half-yearly, may be eligible for "Vacancy Remission" for that half yearly alone after receipt of representation from the owner of the building to the commissioner. Section 105(3) of the Chennai City Municipal Corporation Act, 1919 reads as under:-

> "105(3)(a)No claim for such remission shall be entertained unless the owner of the building or his agent has previously thereto delivered a notice to the commissioner-
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> (i)that the building is vacant and unlet; or
>
> (ii)that the building will be vacant and unlet from a specified dale either in the half-year in which notice is delivered or in the succeeding half-year.
>
> (b)The period in respect of which the remission is made shall be calculated-
>
> (i)if remission is sought in respect of the half-year in which notice is delivered, from the date of delivery of the notice or from the date on which the building became vacant and unlet, whichever is later; and

> (ii)if remission is sought in respect of the half-year succeeding that in which the notice is delivered, from the commencement of the half-year in respect of which remission is sought or from the date on which the building became vacant and unlet, whichever is later.
>
> (c) Every notice under clause (a) shall expire with the half-year succeeding that during which it is so delivered, and shall have no effect thereafter."

4. The facts on record clearly indicates that the property would have been vacant only after 12.09.2014 and not before the aforesaid date. That apart, for availing the benefit of Vacancy Remission, the petitioner should have satisfied the requirement of Sub-Section 3 to Section 105 of the Chennai City Municipal Corporation Act, 1919. In this case, not only the petitioner appears to have been in occupation of the property, but also had assessed the property. Therefore, there is no case made out for granting the relief sought for in this Writ Petition.

5. This Writ Petition stands dismissed. No costs. Consequently, connected writ miscellaneous petitions are closed.

18.11.2024

Index:Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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