BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.17229 of 2024
and
W.M.P.(MD)No.14889 of 2024

S.Selvakumar ... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
Zone 1 (East),
Madurai Corporation,
Madurai. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.Ma1/Aa3/007141/2023, dated 08.04.2024, quash the same as illegal and consequently, direct the respondents to revise the house tax of the petitioner's house to the extent of ground floor 670 sq.ft. and the first floor 710 sq.ft., total extent of 1380 sq.ft. situated at Door No.6-245 Angaiyarkanni Colony, Athikullam, K.Pudur, Madurai – 7, following the nearest house tax levied by the respondents within a time frame fixed by this Court.

For Petitioner : Mr.V.Manikandan

For Respondents : Mr.K.Sivabalan
Standing Counsel

ORDER

The petitioner is before this Court for the second time. Earlier, the petitioner had filed W.P.(MD)No.26569 of 2023 for a Mandamus, directing the first respondent herein to pass appropriate orders on the petitioner's representation dated 13.09.2023 to revise house tax for the petitioner's house to the extent of ground floor 670 sq.ft. and first floor 710 sq.ft., measuring a total extent of 1380 sq.ft.

2. The said Writ Petition was closed by an order dated 22.11.2023 in view of the submission of the learned Standing Counsel for the respondent Corporation that the petitioner's representation has been considered and tax has also been revised. Thereafter, on 24.11.2023, the second respondent herein, the Assistant Commissioner, Madurai Corporation, has sent a communication to the petitioner informing the petitioner about the tax to be paid to which the petitioner has sent a representation on 01.02.2024 to the second respondent, which has now culminated in the impugned order.

3. The learned counsel for the petitioner submits that the property tax was earlier assessed to the petitioner's mother's name namely, S.Renganayaki and that the property was divided between the petitioner and his brother namely, Senthilkumar and that the petitioner's brother has retained 865 sq.ft. in the ground floor while the petitioner has retained 670 sq.ft. in the ground floor and 710 sq.ft. in the first floor, measuring a total extent of 1380 sq.ft.

4. It is submitted that the property tax that is demanded by the second respondent is exorbitant as compared to the tax that was paid by the petitioner's mother. It is further submitted that in the same vicinity, for a property measuring an extent of 1260 sq.ft., bearing Door No.240, Angayarkanni Colony, Madurai, a sum of Rs.242/- only has been demanded from one Thembavani, by determining the annual rental value of the property as Rs.42,336/-. Similarly, the petitioner has drawn attention to few other assessments relating to one N.Janab [Door No.241] and Jeyachandran [Door No.242] and R.Rengaraj [Door No.243] etc.

5. The learned counsel for the petitioner admits that the petitioner has not paid tax after the sub-division of the property has taken place.

6. The learned Standing Counsel for the respondents on the other hand submits that the property is located in a prime location at Madurai and the assessment is based on the report of the Surveyor. It is submitted that the petitioner has an alternate remedy.

7. I have considered the submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

8. In my view, the petitioner cannot challenge the assessment by way of writ proceedings. At best, the petitioner can work out the remedy before the Appellate Authority in terms of Section 100 of the Tamil Nadu Urban Local Bodies Act, 1998 as in force with effect from 13.04.2023 read with Tamil Nadu Urban Local Bodies Rules, 2023.

9. Therefore, this Writ Petition is dismissed with liberty to the petitioner to approach the Appellate Authority against the assessment made. Since the petitioner has not paid tax from 2021, the petitioner is directed to pay 75% of the disputed tax as a condition for entertaining the appeal although otherwise the petitioner is required to pay 100% tax.

Subject to the petitioner paying 75% of the disputed tax, the Appellate Authority shall consider and dispose of the appeal on merits. It is expected that the petitioner will file such an appeal within a period of four weeks from today, failing which, the respondents at liberty to proceed against the petitioner in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

26.07.2024

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

To

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
Zone 1 (East),
Madurai Corporation,
Madurai.

C.SARAVANAN, J.

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W.P.(MD) No.17229 of 2024

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