IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.10.2017
CORAM
The Hon'ble Mr. Justice T.S.Sivagnanam

W.P.No.26041 of 2017
and
WMP.Nos.27639 to 27641 of 2017

Tmt.Rani Mohan ..Petitioner

Vs.

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

2.The Revenue Officer,
Corporation of Chennai,
"Ripon" Building,
Chennai - 600 003.

3.The Assistant Revenue Officer,
Zone V, Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai – 600 021. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent proceedings in computerized demand notice, dated 20.09.2017 Bill No.Old No.03/043/0156/000 New No.05/054/00427/000 relating to the petitioner's property No.25, Chakkarai Street, Kondithope, Chennai – 79 and to quash the same and consequently, to direct the 3rd respondent to pass a fresh assessment order as per the directions given by the Hon'ble Court in W.P.No.26614 of 2009, by order dated 03.12.2014.

For Petitioner : Mr.S.Venkatesh

For Respondents : M/s.Karthikaa Ashok
Standing Counsel

ORDER

Heard Mr.S.Venkatesh, the learned counsel appearing for the petitioner and Ms.Karthikaa Ashok, the learned standing counsel, accepting notice on behalf of the respondent/Corporation. With the consent of the learned counsel appearing on either side, this Writ Petition is taken up for disposal.

2. The petitioner has impugned a computerized statement, which has been uploaded in the Official Website of the respondent/Corporation with regard to the petitioner's property tax payable.

3. This is the second time, the petitioner is before this Court, complaining that the proper assessment has not been done in respect of the petitioner's property. Earlier, the petitioner filed a Writ Petition, in W.P.No.26614 of 2009, to quash the order of assessment, dated 05.10.2009 passed by the third respondent herein, and for a direction upon the respondents 2 to 4, (respondents 1 to 3 herein) to make revision of assessment in accordance with the regulations and relevant rules. The matter was heard after the learned Standing Counsel obtained instructions from the respondent/Corporation, and the Writ Petition was disposed of on 03.12.2014.

4. In terms of the direction issued in the aforesaid W.P.No.26614 of 2009, the petitioner was required to pay a sum of Rs.1,37,807/- only, being the arrears of tax on the pre-revised rate. The petitioner complied with the same by issuing a cheque in favour of the Corporation of Chennai, which was refused to be received by the third respondent. Therefore, the petitioner sent a demand draft, dated 22.01.2015, bearing No.787537, drawn on the State Bank of India, Elephant Gate Branch, Chennai, in favour of the respondent/Corporation. This Demand Draft was sent along with a notice, dated 22.1.2015. The third respondent has received the demand draft, but, unfortunately, misplaced the same. It is not known, as to how, the Revenue

Department of the Corporation can be so careless in misplacing the demand draft, especially, when such amount was directed to be paid, pursuant to the Court order.

5. Be that as it may, the third respondent accepted the mistake committed by him, and by a letter, dated 07.09.2017, requested the petitioner to give a fresh demand draft. The petitioner has now gone before the Bankers and given a letter on 20.9.2017, asking them to issue fresh demand draft for the same amount in respect of the demand draft, dated 22.1.2015. This request is now pending with the petitioner's bankers. In the meantime, in the Official Website of the respondent/Corporation, the petitioner has been shown to be a defaulter, and liable to pay Rs.4,91,680/- as arrears of property tax.

6. In my view, the details, which have been uploaded in the Official Website of the third respondent/Corporation is not tenable in the light of the direction issued by this Court, in the earlier Writ Petition. At this juncture, it would be beneficial to refer to the operative portion of the direction issue in W.P.No.26614 of 2009, dated 03.12.2014, which is extracted hereinbelow:-

"3.The issue which falls for consideration is whether the petitioner was afforded reasonable opportunity to put forth his objections prior to revision of tax from Rs.13,787/- to Rs.38,787/-; to satisfy this issue, there is no record produced by the respondent/Corporation. However, it is to be noted that even if the petitioner disputes the enhancement of tax, he is bound to pay the old property tax at Rs.13,787/-. The petitioner has defaulted from 1st Half year 2006 to till date. The petitioner claims that he has paid Rs.96,509/- on 15.11.2009 and another payment of Rs.30,000/- by cheque during December 2009.

4.In the light of the above, this Court is of the view that if the petitioner seeks for opportunity to submit his objections to the enhancement of property tax, he has to first clear the entire arrears of property tax at the rate of Rs.13,787/- per half year till date, only if the petitioner clears the entire arrears at the old rate fixed, the petitioner could be granted indulgence. While effecting such payment, the respondent/Corporation shall give credit to the payments said to have been made by the petitioner in the interregnum, which according to the petitioner is Rs.96,509/- plus Rs.30,000/-. If the petitioner clears entire arrears, within a period of four weeks from the date of receipt of copy of the order, then the respondent/Corporation shall issue show cause notice to the petitioner clearly indicating as to how the property tax was revised from Rs.13,787/- to Rs.38,787/- with effect from the 2nd half year 2001-2002. On receipt of the notice, the petitioner is entitled to submit her objection in writing and after affording opportunity to the petitioner or her authorized representative, the 4th respondent shall pass appropriate orders on merits and in accordance with law. If the petitioner defaults in complying with the condition imposed by this Court, she is entitled to the opportunity by way of show cause notice and it is open to the respondent/Corporation to proceed against the petitioner in accordance with law. Consequently connected miscellaneous petition is closed. No costs."

7. As on date, the order and direction issued by the Court, in the earlier Writ Petition (referred to supra) is valid and binding on the respondents. So far as the petitioner is concerned, she has complied with the direction issued by this Court, and, it is on account of the carelessness of the third respondent, the demand draft is missing. The petitioner assures the Court that within 10 days fresh demand draft will be submitted to the third respondent. However, the third respondent has failed to comply with the direction issued by this Court, in the earlier Writ Petition. This would amount to contempt of Court's order. However, this Court refrains from taking any action against the third respondent in this regard for the present, as he admitted the mistake.

8. In the light of the above, the Writ Petition is allowed, and the computerized demand notice, dated 20.9.2017 is set aside with a direction to the petitioner to submit a fresh demand draft for a sum Rs.1,37,807/- within a period of ten days from the date of receipt of a copy of this order and after receiving the said amount, the second and the third respondents shall scrupulously follow the order and direction issued in the earlier Writ Petition (referred to supra). However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.10.2017

Speaking/Non speaking order
Index : Yes/No
Internet: Yes/No
ms/sd

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T.S.Sivagnanam, J.

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