(2007) 04 MAD CK 0025

In the Madras High Court

Case No : Writ Petition No. 1129 of 2001

R. Kapanipathi Rao APPELLANT

Vs

Special Commissioner and Commissioner of Land Reforms, Assistant Commissioner of Urban Land Tax and Special Tahsildar (U.L.T.) RESPONDENT

Date of Decision : 09-04-2007

Acts Referred:
Tamil Nadu Urban Land Tax Act, 1966 — Section 11, 12, 14, 14, 15

Citation : (2007) 04 MAD CK 0025

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : K. Ganesan, for the Appellant; No appearance, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Heard Mr. K. Ganesan, learned Counsel for the petitioner. The counsel for the respondents was absent in the morning and

the matter was passed over till after recess. When the matter is again called, the counsel for the respondents is absent.

2. In this writ petition the petitioner has prayed for quashing the proceedings R.C. No. 4251/2000-C1 dated 13.11.2000 under the following

circumstances: The petitioner was served with the demand notice dated 13.11.2000. He filed revision before the Special Commissioner. It was

contended before the Special Commissioner that issuance of demand notice u/s 14 without following the procedure is not contemplated. A perusal

of the said provision contained in the Tamil Nadu Urban Land Tax Act 1966 indicates that the owner of urban land is liable to submit returns u/s 7

of the Act. Section 7-A of the Act contemplates the owner of the urban land in the city of Madras would submit return. Section 7-D of the Act

contemplates filing of the fresh return. This settlor also contemplates the provisions of this Act shall as far as may be apply in respect of such return

as they apply in respect of such return referred to in Section 7. u/s 9 if any owner of urban land fails to furnish return u/s 7, the Assistant

Commissioner may obtain necessary information in respect of the particulars specified in Section 7 either by himself or through such agency as he

thinks fit. It is thus obvious that in view of Section 7-D of the Act on failure of the owner to furnish return, the Assistant Commissioner is required

to obtain necessary information. Section 11 contemplates the procedure in case where no return is filed. At that stage, the Assistant Commissioner

after obtaining the necessary information as contemplated u/s 9 is required to serve a notice on the owner in respect of each urban land specifying

therein the extent of the urban land, the amount which in the opinion of the Assistant Commissioner is the correct market value of the urban land

and direct the owner to attend in person on a specified date or to produce any evidence on which the owner may rely.

3. It is the specific case of the petitioner that without complying with the procedure contemplated u/s 7, notice of demand as contemplated u/s 14

has been issued and such notice was challenged before the revisional authority. However, the revisional authority has rejected the revision without

deciding such aspect.

4. In this writ petition in spite of service of notice no counter affidavit has been filed denying allegations. From the allegations it is apparent that the

notice of demand has been issued without first complying with the other conditions contemplated under Sections 9 and 11. The learned Counsel

for the petitioner has further contended that even as per Section 15 notice of demand is required to be issued for each year whereas in the present

case notice has been given for 9 years. In the absence of any assessment order as contemplated under Sections 11 and 12, notice of demand

cannot be sustained.

5. However, it will be always open to the appropriate authority to initiate fresh proceedings in accordance with law and the fact that the writ

petition has been allowed will not stand in the way because the notice has been quashed only on the ground of non-compliance of the provisions contained in Sections 9, 11 and 12 and not on merit.

6. If any such fresh proceeding is started, it would be open to the petitioner to raise all his defences in accordance with law.

7. The writ petition is allowed subject to above observations. No costs.

