



W.P.(MD)No.825 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 02.08.2024

DELIVERED ON : 23.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.825 of 2021

and

W.M.P.(MD)Nos.691 and 693 of 2021

Arulmigu Aranganathar Thirukovil,
Srirangam,
represented by the Joint Commissioner /
Executive Officer,
Srirangam, Trichy-620 006.

... Petitioner

Vs.

The Trichy Corporation,
represented by its Special Officer /
Commissioner,
Trichy.

... Respondent

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 pertaining to the impugned order passed by the respondent in Na.Ka.No.7182/2003/A2(Sri), dated 18.05.2020 and the consequential



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impugned demand notice in No.581/1430/C3, dated 02.09.2020, quash the same and direct the respondent to grant exemption of property tax to the petitioner's Yatri Nivas Choultry in accordance with Sec.123(b) of Tiruchirappalli City Municipal Corporation Act.

For Petitioner : Mr.M.Saravanan

For Respondent : Mr.R.Baskaran
Senior Counsel
for R.B.Law Associates

ORDER

The Writ Petition is directed against the order dated 18.05.2020 passed by the respondent and the consequential demand notice dated 02.09.2020 and for further direction to the respondent to grant exemption of property tax to the petitioner's Yatri Nivas Choultry in accordance with the provisions of Trichirappalli City Municipal Corporation Act.

2. Section 8 of the Trichirappalli city Municipal Corporation Act, 1994 contemplates that all the provisions of the Coimbatore City Municipal Corporation Act, 1981, including the provisions relating to the levy and collection of any tax or fee are extended to and shall apply



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mutatis mutandis to the Tiruchirappalli Corporation. The petitioner temple has claimed exemption from the assessment of property tax to the petitioner's Yathri Nivas, invoking Section 123(b) of the Coimbatore City Municipal Corporation Act (applicable to Trichirappalli Corporation also).

3. The case of the petitioner is that the petitioner temple is the foremost of the eight self-manifested shrines of Lord Vishnu, that the temple complex is 156 acres in extent and has seven prakaras or enclosures, that more than 10,000 devotees are visiting the petitioner's temple to worship Lord Vishnu, that Urchavams are being conducted atleast on 200 days in a year, that as per the directions of former Hon'ble Chief Minister, the petitioner has taken steps to construct a choultry for the devotees coming to petitioner's temple, Thiruvanaikovil Arulmigu Akilandeswari Udanurai Jambukeswarar Thirukovil and Arulmigu Mariamman Thirukovil, Samayapuram for the lodging of pilgrims and travelers, that the petitioner had obtained 6.40 acres of land from Trichy Corporation and from out of the funds of the temples, the Choultry was constructed at a cost of Rs.43.33 Crores, that the object of construction is



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to facilitate the pilgrims and travelers who come to worship in the three temples mentioned above, that no rent is being charged, but a small amount of donations are received from the pilgrims for the maintenance of Choultry, that Choultry is being run for charitable purpose and not with any profit making motive, that a token sum of Rs.100/- from each devotees is received as donation and out of this small collection, the Choultry is being maintained and the salary of the employees, electrical charges etc., are being paid, that the petitioner was shocked to receive a demand notice from the respondent calling upon them to pay a sum of Rs.17,97,642/- towards property tax from the assessment year 2014-2015 to 2020-2021, that the petitioner has submitted a representation to the respondent on 13.05.2020 seeking exemption from payment of property tax on the ground that the property is exclusively used as Choultry for the benefits of the pilgrims, but by an non-speaking order dated 18.05.2020, the respondent has rejected the petitioner's representation and issued the impugned demand notice, dated 02.09.2020 and that therefore, the petitioner with no other option, has approached this Court invoking Article 226 of the Constitution of India.



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4. The respondent has filed a counter affidavit stating that the construction put up by the petitioner is not Choultry and it is a modernized guest house, even as per the Government letters dated 26.04.2016, 20.05.2016 and 24.08.2016, that as per the letter dated 13.05.2020, the petitioner has claimed that a minimum rent is charged for availing guest house and the nominal donation of Rs.100/-is also collected, which according to them is used for maintenance of the guest house, that the petitioner is assessed for property tax from the assessment year 2014-2015 to 2022-2023 to the tune of Rs.1,76,68,308/-, that the petitioner in the letter dated 13.05.2020, has claimed exemption from assessment of property tax on the ground that since the guest house is not for profit motive rather to serve the needs of the pilgrims and travelers, whereas in the writ petition they have claimed exemption, since the petitioner's establishment is a Choultry and therefore, entitled for exemption from the property tax assessment, that the respondent has rightly rejected the petitioner's representation for exemption, since the petitioner's establishment is not a Choultry and it is a modernized guest house, that a perusal of Section 123(b) of the Coimbatore City Municipal Corporation Act would reveal that there is no exemption for modernized



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guest house as in the case on hand, that the rent charged for guest houses is not used exclusively for charitable purposes, that the petitioner temple has admitted that nominal donation collected from the guest house is only used for charitable purposes on the pretext of maintenance of guest house, employees' salary, electricity charges and other incidental expenses, which leads to the irresistible conclusion that the rent charged is not used for charitable purpose and hence, the same does not qualify as a Choultry, that the petitioner's establishment is not only used by pilgrims, but also by tourists and individuals who wish to avail accommodation, that the purpose of visit of the guests availing guest houses at petitioner's establishment is inconsequential since it is not verified before providing guest houses and therefore, it partakes the characteristic of a hotel and not a Choultry run for charitable purpose and that therefore, the petition is liable to be dismissed.

5. No doubt, the petitioner temple is a Hindu temple dedicated to Lord Renganatha, being the foremost among 108 Divyadesams dedicated to Lord Vishnu. According to UNESCO, the petitioner's temple has been considered as the biggest Hindu temple in the world, as it covers the area



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of 156 acres having 7 prakaras and 21 towers. The temple lies on an islet formed by the rivers Cavery and Kollidam (Coleroon). It is also not in dispute that the petitioner's temple as well as Thiruvanaikovil Arulmigu Akilandeswari Udanurai Jambukeswarar Thirukovil and Arulmigu Mariamman Thirukovil, Samayapuram attract huge pilgrims of not only from Tamil Nadu but all over India. It is also not in dispute that the petitioner temple, after getting the land of 6.4 acres from Trichy Corporation, has constructed a building at the cost of Rs.43.35 Crores. According to the petitioner, the said buildings were constructed as Choultry for the purpose of lodging of pilgrims to the petitioner temple and the other two temples referred above. But according to the respondent, it is a modernized guest house meant for lodging not only for pilgrims but also for other travelers.

6. It is not in dispute that the petitioner temple has given a representation dated 13.05.2020 to the respondent seeking exemption from the assessment of property tax and that the respondent has passed an order dated 18.05.2020 stating that the petitioner temple does not come under the exempted category as per Section 123(b) of the



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Corporation Act, that the petitioner temple cannot be given exemption from assessment of property tax and that subsequently, the respondent issued the impugned demand notice dated 02.09.2020 claiming property tax to the tune of Rs.17,97,642/- for the assessment years from 2014 – 2015 to 2020-2021.

7. In the counter affidavit, the respondent has claimed that the petitioner was assessed to property tax from the assessment year 2014-2015 to 2020-2023 to the tune of Rs.1,76,68,308/-. In the present case, we are not concerned with the quantum of property tax claimed, but only the dispute is whether the petitioner temple is entitled to get exemption from the assessment of property tax under Section 123(b) of Tiruchirappalli City Municipal Corporation Act.

8. Before entering into further discussion, it is necessary to refer Section 123(b) of the Coimbatore City Municipal Corporation Act, which also applies to Trichirappalli City Municipal Corporation Act:

“123. General exemptions: The following buildings and lands shall be exempt from the property tax:



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(a)

(b) *Choultries for the occupation of which no rent is charges and choultries the rent charged for the occupation of which is used exclusively for charitable purposes.”*

9. The learned Standing Counsel for the respondent Corporation would mainly contend that the guest house now in dispute cannot be considered as Choultry and even according to the petitioner, it is only a modernized guest house.

10. Choultry is a resting place, an inn or Caravansary for travelers, pilgrims or visitors to a site linked to Hindu, Buddhist and Jain temples. As per the Collins Dictionary, Choultry is considered as a place where travellers can rest or a portico or hall lined with pillars in a temple. In the Law Lexicon of British India compiled by P.Ramanatha Aiyer, Choultry is defined as Chathiram and is a shelter or resting place for travelers and Chathiram is a house where pilgrims and travelers are stayed.



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11. The learned Counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of ***Municipal Council, Tirupathi Vs. Tirumalai Tirupathi Devasthanam*** reported in ***(1974)1 SCC 683***, wherein the Hon'ble Apex Court has held that

“Choultry is indeed an ancient institution and is principally meant for lodging of pilgrims and travellers. This institution, like similar others elsewhere, has come to stay as a symbol of religious and charitable disposition of human mind translated into physical manifestation in the shape of safe shelter for the pilgrims. As man advances and ideas grow and expand, with his ever increasing desire for comfort and convenience, the shape of the choultry must needs also change. It is, therefore, only to be expected that with the growing funds of the Devasthanams, such choultries will be constructed in a modern way catering to the needs and requirements of the pilgrims and visitors of all classes in a self-contained unit or complex.

It would be necessary to look at the institution from the point of view of the predominant intention which guides the building up of the complex as a whole. The concept of a choultry to-day may, therefore, be completely different from that with which one may be familiar a hundred years ago.

There must, however, be no idea of profit motive in running or administering a choultry. Besides the expenditure



for running a choultry with amenities should not be made with an idea to realise it from the visitors using the same. In other words, the choultry must in truth and reality bear the hall mark of a charitable institution and should not partake of the character of a hotel run for profit.

It is not possible to restrict the term "choultry" in the context of the economic development and improved standard of living of our people, to only that portion of the building which is directly used for lodging of visitors and pilgrims. However, a line will have to be drawn to distinguish between what is incidental or subservient to the main object and purpose of the choultry and the oblique motive of profit-making to deprive the Municipality of its rightful dues."

12. The learned Standing Counsel appearing for the respondent would rely on two passages in the judgment above referred and the same are extracted hereunder:

"9. Even then a line will have to be drawn to distinguish between what is incidental or subservient to the main object and purpose of the choultry and the oblique motive of profit-making to deprive the Municipality of its rightful dues.

10. It is well recognised that there is no equity or morality about a tax and a taxing statute or provision has to be



construed strictly on its plain meaning where possible. Similarly who so ever claims exemption from tax under the law, has to establish his own case as falling within the exemption clause.”

13. As already pointed out, it is the specific case of the petitioner that the guest house in dispute came to be constructed for lodging of pilgrims and travelers who come to worship in the three temples mentioned above. But admittedly, Yathri Nivas guest house now in dispute is not situated within the campus of the petitioner temple or nearby the petitioner temple or to the other two temples referred above. Yathri Nivas is situated at a distance of more than 2 kms from the petitioner temple and from Thiruvanaikovil Arulmigu Akilandeswari Udanurai Jambukeswarar temple and at a distance of 9 km from Samayapuram Arulmigu Mariamman temple.

14. It is pertinent to note that the management of Yathri Nivas or the petitioner temple has not framed any rules or regulations permitting the people who come to visit the above three temples alone are entitled to apply and stay in the guest house and there is absolutely no prohibition



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for persons who come for different purposes, not for visiting the above temples. The purpose of visit is not shown as criteria for availing the facility of guest house. Any person who come to Trichy for some other purpose can very well avail the guest house facility and it is not mandatory that he has come to Trichy only for visiting the above temples. During marriage seasons, the management is allowing bulk booking for the marriage purpose. Considering the above and taking note of the definition for the word “Choultry”, by no stretch of imagination, Yathri Nivas can be considered as Choultry and as rightly contended by the respondent, it is a modernized guest house.

15. It is the specific case of the petitioner that Yathri Nivas caters the need of poor pilgrims and they are receiving a token sum of Rs.100/- from each devotee as donation for giving accommodation in Yathri Nivas. But the learned Standing Counsel for the respondent has produced the Yathri Nivas room tariff and the same was not specifically disputed by the petitioner temple. It is evident from the chart, though titled as “Yathri Nivas Rooms – Kanikkai details”, they are charging Rs.1,750/- per day for AC Cottage meant for 4 persons and Rs.750/- for



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AC double bed room meant for 2 persons, Rs.500/- for Non AC double bed room meant for 2 persons, Rs.1,600/- for 8 bed dormitory AC and Rs.2,000/- for 10 bed dormitory AC and Rs.1,100/- for 11 bed dormitory.

16. It is evident from the above that they are charging Rs.100/- per devotee while accommodating Non-AC dormitory. As rightly contended by the learned Standing Counsel for the respondent, in an attempt to escape and avoid the property tax liability, they have referred a word “Kanikkai”, which would mean “offerings” instead of using the word rent. Considering the above, the contention of the petitioner that they have been charging only Rs.100/- from each devotee, that too as donation for using the Yathri Nivas is proved to be false.

17. According to the petitioner, the Yathri Nivas is being run for charitable purpose and not for any profit making motive and that the small amounts collected from the pilgrims and travelers are being used for maintenance purpose, payment of salary to the employees, electrical charges and etc. As rightly contended by the learned Standing Counsel



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for the respondent, even according to the petitioner, the amount collected from the pilgrims and travelers for using the Yathri Nivas are utilised for maintenance of Yathri Nivas, payment of employees' salary, electricity charges and other incidental expenses and that the same would only go to show that they have not used the income received from the Yathri Nivas for charitable purpose, but only for the purposes referred above.

18. As already pointed out, Section 123(b) of the Coimbatore City Municipal Corporation Act, exemption is applicable only in case where no rent is charged for the occupation of the guest house and even if any rent is charged, the same is used exclusively for charitable purposes. In the case on hand, as already pointed out, the petitioner has been charging rent for the occupation of Yathri Nivas and that they have not been using the income from the Yathri Nivas for charitable purposes and as such, the question of applying Section 123(b) of the said Act does not apply.

19. After reserving the above petition for orders, this Court after taking the matter suo motu, directed the petitioner to produce the income and expenditure statement of Yathri Nivas for three years period, prior



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to the impugned order dated 18.05.2020 certified by their audit section.

In pursuance of the directions of this Court, the petitioner has filed the additional typed set producing the Yathri Nivas receipts and payments issued by the Regional Audit Officer, HR&CE, Department, Srirangam along with other documents. In the income and expenditure statement for the fasli from 1424 to 1432, they have shown the expenditure under the heads – maintenance expenses, cleaning work, purchase of articles, construction expenses, electrical charges, for the fasli 1424 and maintenance expenses, cleaning work and electricity charges for some of the faslies. It is further evident that for some faslies, there were yearly income ranging from three Crores to one Crore. But they have not furnished the details of the expenditure properly. Even according to their expenditure statement, they have utilised all the income only for the maintenance of Yathri Nivas, for payment towards cleaning works, payment of electricity charges and there is absolutely no entry for utilising the income for any charitable purpose.

20. As already pointed out, it is the specific case of the petitioner that Yathri Nivas was constructed at a cost of Rs.43.33Crores, but the



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source of that amount was not disclosed in the affidavit filed in support of the writ petition. In the additional typed set, which came to be filed at the fag end of hearing, they have produced a Government Order in G.O.Ms.No.233, dated 12.07.2012, wherein the H.R. & C.E., Department has directed the petitioner temple and Samayapuram Mariamman Temple to provide Rs.17.90 Crores each for constructing the Yathri Nivas and as per the directions, both the temples have paid the said amount to Public Works Department and on that basis, Yathri Nivas came to be constructed. They have also produced a letter sent by the Commissioner of HR & CE, Chennai to the Joint Commissioners of the petitioner temple and Samayapuram Mariamman temple informing that the permission has already been granted to construct the Yathri Nivas by spending the amount by both the temples at 50:50 ratio and directed them to pay the said amount to the Public Works Department immediately. It is further evident that the Yathri Nivas was declared open on 30.06.2014 by the then Hon'ble Chief Minister of Tamil Nadu.

21. It is pertinent to note that the petitioner has produced a letter sent by the Joint Commissioner / Executive Officer, Samayapuram



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Mariamman temple to the Joint Commissioner / Executive Officer of petitioner temple informing that they have only received one Crore from the petitioner temple and requested the petitioner temple to return the balance amount which was given for construction of Yathri Nivas and also to pay their share of income from the Yathri Nivas.

22. But as rightly pointed out by the learned Standing Counsel for the respondent, neither in G.O.Ms.No.233 nor in the letter sent by the Commissioner of HR&CE, dated 13.07.2012, there was no condition that the petitioner temple has to repay the amount that would be given by Samayapuram temple for construction of Yathri Nivas and also to share profits from the Yathri Nivas to be constructed. As rightly contended by the learned Standing Counsel for the respondent, the above letter is dated 09.07.2024, i.e., when the present Writ Petition was in part-heard stage. More importantly, as already pointed out, in the said letter, they have referred a letter sent by the Commissioner, HR&CE, dated 13.12.2015, wherein the Commissioner has directed the petitioner temple, after deducting the amount spent for expenses, has to share 50% of the remaining income derived from Yathri Nivas. It is necessary to refer the



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exact wordings in the letter dated 09.07.2024 sent by the Executive

Officer of Mariamman temple:

“யாத்திரி நிவா! பக்தர்கள் தக்கும் விடுதி 30.12.2014 முதல் திருவர்தம்இ அருள்மிகு அர்தநாதசுவாமி திருக்காயில் நிர்வாகத்தின் மூலம் பக்தர்கள் தக்குவதற்கு பயன்பாட்டுக்கு அனுமதிக்கப்பட்டுள்ள நிலையில் பார்வை குறிப்பு 3 – ல் வாடகை வகையில் கிடைக்கக்கூடிய வருமானத்தில் விடுதி பராமரிப்பு தொகையை கழித்துவிட்டு எங்சிய தொகையில் 50 சதவீக்த தொகை சமயபுரம்இ அருள்மிகு மாரியம்மன் திருக்காயிலுக்கும்இ 50 சதவீக்த தொகை அருள்மிகு அர்தநாதசுவாமி திருக்காயிலுக்கும் கணக்கீடு செய்து அளிக்க திருவர்தம்இ அருள்மிகு அர்தநாதசுவாமி திருக்காயில் ணை ஆணையர் / செயல் அலுவலருக்கு அனுமதி வழங்கப்பட்டுள்ளது.”

Considering the above, it is very much clear that even according to the petitioner temple as well as the Department of HR&CE, they have constructed the Yathri Nivas with profit motive.

23. No doubt, the petitioner has also produced a letter sent by the Joint Commissioner / Executive Officer of petitioner temple to their Counsel on record stating that they have derived total income of Rs.

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11,66,17,419/- for the period between 01.07.2014 and 30.06.2023, but they have spent Rs.13,86,21,020/- for maintenance, construction work and for payment of electricity charges for the same period and that they have to pay Rs.38,16,33,913/- to the Samayapuram Mariamman temple towards the repayment of the amount received from them for constructing Yathri Nivas along with interest.

24. As rightly contended by the learned Standing Counsel for the respondent, though they have given such amounts as income and expenditure, they have not furnished the proper particulars for the same. Whatever it is, as already observed, since the petitioner is claiming exemption from assessment of property tax, they have to establish their case as falling within the exemption clause, but they have miserably failed to establish the same. Considering the above, the impugned order dated 18.05.2020 and the consequent demand notice sent by the respondent cannot be found fault with. Consequently, this Court concludes that the Writ Petition is absolutely devoid of merits and the same is liable to be dismissed.



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25. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

23.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

SSL

To

The Special Officer /
Commissioner,
Trichy Corporation,
Trichy.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY ORDER MADE IN

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