IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WA.No. 1297 of 2013 () IN WP(C).17327/2007

JUDGMENT IN WP(C) 17327/2007 of HIGH COURT OF KERALA DATED 21-06-2013

APPELLANTS/RESPONDENTS 1 AND 2 IN W.P.(C):
----

1. THE REVENUE OFFICER
CORPORATION OF COCHIN, PARK AVENUE, P.B.NO.1016
COCHIN - 11.

2. THE SECRETARY,
CORPORATION OF COCHIN, PARK AVENUE, P.B.NO.1016
COCHIN - 11.

BY ADV. SRI.K.ANAND, SC, COCHIN CORPN.

RESPONDENT/PETITIONER IN W.P.(C):

CHINMAYA MISSION
REPRESENTED BY ITS SECRETARY, SRI.P.KRISHNADAS
NETTEPPADAM ROAD, COCHIN - 682 016.

R1 BY ADV. SRI.M.P.RAMNATH

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

W.A. No.1297 of 2013

Dated this the 21st of May, 2015

<u>JUDGMENT</u>

<u>Antony Dominic,J.</u>

Respondents in W.P.(C) No.17327 of 2007 are the appellants. By the judgment under appeal, the learned Single Judge quashed the demand made by the appellants for property tax in respect of a building constructed by the respondent. It is this judgment which is under challenge.

2. We heard the learned counsel for the appellants and the learned counsel for the respondent.

3. The appellants issued Exts.P1, P5 and P7 notices demanding property tax from the respondent in respect of a building constructed by them. That demand was resisted by the respondent contending that the building is liable to be exempted from the levy of property tax in view of the provision contained in Section 235(a) of the Kerala Municipality Act which exempts from levy of property tax, building set apart for public worship and actually so used or used for incidental purposes, religious

study centres. However, this claim of the respondent was not accepted and it was this controversy which led to the filing of the writ petition. As we have pointed out the learned Single Judge accepted the claim of the respondent and it is this finding of the learned Single Judge that is impugned before us.

4. Although various contentions are raised by the counsel for the appellants, we find from the judgment under appeal, that in order to ascertain the true nature and user of the building in question, the learned Single Judge had appointed an Advocate Commissioner. The facts reported by the Advocate Commissioner shows that the user of the building comes squarely within Section 235(a) of the Act. The contents of this report were not disputed by the appellants and the appellants also did not seek any further visit by the Advocate Commissioner nor did they produce any material before the learned Single Judge to contradict the findings of the Advocate Commissioner. It was in such circumstances that the learned Single Judge accepted the report and upheld the claim of the respondent for exemption from property tax. Such exercise of discretion by the learned

Single Judge, in the facts of this case, cannot be said to suffer from any illegality for interference in an appeal.

The writ appeal fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy// P.A. to Judge

smv