

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C) .No. 3260 of 2015 (F)

PETITIONER:

THE BISHOP MOORE COLLEGE
MAVELLIKKARA, REPRESENTED BY ITS PRINCIPAL
DR. LEELAMMA GEORGE, AGED 55 YEARS.

BY ADV. SRI.A.SHAFAEEK (KAYAMKULAM)

RESPONDENTS :

1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO LOCAL SELF GOVERNMENT
INSTITUTIONS, SECRETARIAT, THIRUVANANTHAPURAM 695 001
2. THE MAVELIKKARA MUNICIPALITY, REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE, MAVELIKKARA
3. THE SECRETARY, MAVELIKKARA MUNICIPALITY, MUNICIPAL OFFICE,
MAVELIKKARA

R BY GOVERNMENT PLEADER SMT. C.K.SHERIN
R BY SRI.RASHEED.C, SC, MAVELIKKARA MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE PROCEEDINGS OF THE UNIVERSITY GRANTS COMMISSION.

EXT.P2: TRUE COPY OF THE BUILDING PERMIT DATED 16.6.2011 ISSUED BY THE 2ND RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P3: TRUE COPY OF THE NOTICE DATED 10.10.2012 ISSUED BY THE 3RD RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P4: TRUE COPY OF THE OBJECTION DATED 21.11.2012 SUBMITTED BY THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P5: TRUE COPY OF THE RECEIPT DATED 21.11.2012 ISSUED BY THE 2ND RESPONDENT ACKNOWLEDGING THE RECEIPT OF EXT.P4 ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P6; TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT SHOWING THE PAYMENT OF PROPERTY TAX ALONG WITH ITS ENGLISH TRANSLATION.

EXT.P7: TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE 3RD RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

DAMA SESHADRI NAIDU, J.

W.P.(C) No.3260 of 2015

Dated this the 18th day of March, 2015.

JUDGMENT

Briefly stated, the petitioner, a minority institution, is not required to pay any property tax in terms of Section 235 of the Kerala Municipality Act. Nevertheless, the second respondent Municipality collected the property tax to a tune of Rs.64,757/- as evidenced by Ext.P6 from the petitioner

2. It appears that the petitioner paid the amount under protest, since the respondent Municipality refused to issue ownership certificate unless the tax was paid.

3. Seeking recovery of the amount paid by the petitioner, the petitioner is said to have repeatedly made oral demands on the respondent Municipality, which, according to the learned counsel, did not yield any result. Under these circumstances, the petitioner has approached this Court.

4. The learned counsel for the respondent Municipality, in my view appreciably, submitted on instructions that the respondent Municipality suffers from precarious financial

constraints and that it will repay the amount in question to the petitioner within six months.

5. When the learned counsel for the petitioner has insisted that the amount be paid at least within four months, the learned counsel for the second respondent submitted that it is feasible for the Municipality to pay it in six months.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the second respondent, this Court disposes of the writ petition with a direction to the second respondent to repay the amount of tax collected without any authority of law from the petitioner, as expeditiously as possible, at any rate within six months from the date of receipt of a copy of this judgment. No order as to costs.

Sd/-
DAMA SESHADRI NAIDU
JUDGE