

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.38084 OF 2015
and M.P.Nos.1 and 2 OF 2015

The Secretary,
Idaya Engineering College for Women,
Nainarpalayam Road, Chinnasalem,
Villupuram District - 606 201. .. Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Department of Municipal Administration
and Rural Development,
Fort St. George,
Chennai - 600 009.
2. The Director of Town Panchayat,
Kuralagam, Chennai - 600 108.
3. The Assistant Director of Town Panchayat,
Cuddalore, Cuddalore District.
4. The District Collector,
Villupuram - 605 602.
5. The Executive Officer,
Chinnasalem Town Panchayat,
Villupuram District - 606 201. .. Respondents

* * *

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records relating to the impugned notices of the fifth respondent in Na.Ka.No.922/2011/A1, dated 30.04.2015 (demanding a sum of Rs.7,27,472/- towards property tax) and his consequential notice in Na.Ka.No.922/2011 dated 04.09.2015 (demanding a sum of Rs.7,77,472/- towards property tax) in respect of the petitioner's college-buildings in Re-Survey No.407/1, Nainarpalayam Road, Chinnasalem, Villupuram District - 606 201, quash the same.

* * *

For Petitioner : Mr.Issac Mohanlal
For Respondent : Mr.M.S.Ramesh,
Additional Government Pleader
for RR1 to 4

Mr.R.Ravichandran for R5

O R D E R

The petitioner College was established in the year 2001 and administrated by a Congregation of Roman Catholic Nuns known as "The Immaculate Heart of Mary Society". It is a society registered under the Societies Registration Act bearing Registration No.27 of 1973 with the object of providing professional higher education to the poor and needy rural women. It is a Minority Educational Institution defined under Article 30(1) of the Constitution of India.

2. The College has sufficient building facilities in Re-Survey No.407/1 in Chinnasalem Town Panchayat to cater the needs of the students. Since the buildings are exclusively used for educational purposes, they are exempted from levy of property tax as provided under Section 83 of the Tamil Nadu District Municipalities Act. But the officers of the Town Panchayat had levied tax upon the buildings for the year 2001-2002, which was protested by the petitioner.

3. A demand notice in Na.Ka.No.922/2011/A1, dated 21.01.2012 was issued by the fifth respondent directing the petitioner to pay a sum of Rs.7,27,472/- as tax for the period from 2008-2009 to 2010-2011. The petitioner filed W.P.No.25472 of 2012 questioning the jurisdiction of the said respondent. This Court, by order dated 24.09.2012, set aside the notice dated 21.01.2012 and the consequential notice dated 22.08.2012 giving liberty to the respondents to pass appropriate orders in accordance with the relevant provision of law, after issuing show cause notice and giving an opportunity of hearing to the petitioner.

4. Thereafter, the fifth respondent issued show cause notice dated 29.01.2015, thereby informing the petitioner to file reply on the proposal of levying the same amount of Rs.7,27,472/- as property tax, for which, the petitioner submitted their reply dated 09.02.2015 reiterating that they have been exempted from the payment of property tax under Section 83(1)(c) of the Tamil Nadu District Municipalities Act. However, the fifth respondent observed that the exemption is not automatic and issued the notice dated 30.04.2015 levying the property tax. The fifth respondent also served the demand notice

dated 04.09.2015 upon the petitioner directing them to pay the property tax without delay. Challenging the said notices dated 30.04.2015 and 04.09.2015, the petitioner filed this writ petition.

5. The learned counsel for the petitioner submitted that the petitioner in W.P.No.25472 of 2012 questioned the jurisdiction vested with the respondent for the purpose of levy of property tax and as per the directions of this Court in the said writ petition upon receipt of notice dated 29.01.2015, filed necessary reply dated 09.02.2015. But, without considering the same, the impugned notices dated 30.04.2015 and 04.09.2015 came to be issued. Hence, he seeks to quash the impugned notices.

6. The learned Additional Government Pleader fairly submitted that necessary orders would be passed meeting out the objections raised by the petitioner in their reply dated 09.02.2015. The said submission is recorded.

7. Admittedly in the earlier round of litigation, while setting aside the earlier notices, this Court directed the petitioner to file their objections. Accordingly, the petitioner filed their reply dated 09.02.2015, giving adequate reasons for grant of exemption and also questioning the power of the respondent to demand property tax. But the said reply was never considered by the fifth respondent and the impugned notices dated 30.04.2015 and 04.09.2015 came to be issued. Hence, in the interest of justice, the impugned notices dated 30.04.2015 and 04.09.2015 are set aside and the matter is remanded back to the fifth respondent for passing appropriate orders, after considering the reply dated 09.02.2015 and 18.05.2015 of the petitioner in line with the provisions of the Tamil Nadu District Municipalities Act, and also by affording the petitioner an opportunity of personal hearing, on merits and in accordance with law. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

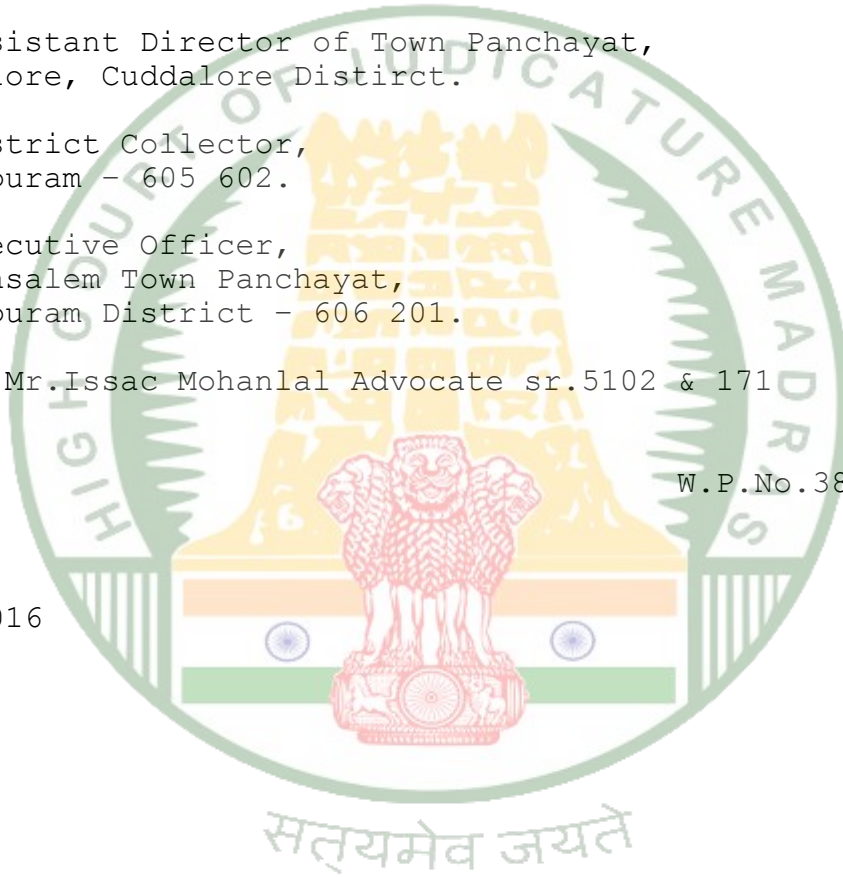
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To

1. The Secretary,
Department of Municipal Administration
and Rural Development,
Government of Tamil Nadu,
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- +2 ccs to Mr.Issac Mohanlal Advocate sr.5102 & 171

W.P.No.38084 of 2015

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