BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.3309 of 2016
and
W.M.P.(MD).Nos.2873 and 2874 of 2016

1. P.G.Ayyadurai
2. P.G.Krishnakumar ... Petitioners

Vs.

The Commissioner,
Madurai Corporation,
Madurai.
... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the respondent in property tax demand notice assessment No.384639 dated 04.12.2015 measuring 44216 sq.ft. instead of 34828 sq.ft. and quash the same and further direct the respondent to assess the property tax for the petitioners' property measuring 348.28 sq.ft. which is actual build up area.

For Petitioners : Mr.T.K.Gopalan for
Mr.PT.S.Narendra Vasan
For Respondent : Mr.N.Shanmugaselvan

ORDER

The writ petition has been filed for a Writ of Certiorarified Mandamus to call for the records of the respondent relating to the property tax demand notice assessment No.384639 dated 04.12.2015 measuring to 44216 sq.ft. instead of 34828 sq.ft. and quash the same and further direct the respondent to assess the property tax for the petitioners' property measuring 34828 sq.ft. which is the actual build up area.

2. After elaborate argument, the learned counsel for the petitioners submitted that even though the petitioner was directed to pay under duress Rs.16 lakhs, to show his bona fide, he is prepared to pay the balance amount as claimed by the Department, without prejudice, as per his measurement, a sum of Rs.4,89,680/- within a period of two weeks. But, his only request is that the authority may measure the entire properties which according to him, he has built up the building in accordance with the building plan approval and not in accordance with the measurement which has been arrived at by the Corporation concerned. Hence, he restricted his prayer only to a limited extent to measure the property by the authorities concerned in his presence. If the measurement shows 44216 sq.ft. as narrated by the Corporation, the petitioner is

prepared to accept and pay the tax.

3. The learned counsel for the respondent would contend that normally if the petitioner challenges the demand notice, only an appeal would lie and a writ would not lie. But in this case, the petitioner has already paid a sum of Rs.16 lakhs and prepared to pay the balance amount of Rs.4,89,680/-. Hence, as far as the measurement is concerned, he leaves it to the Court. He further submitted that the assessment is only according to the available records with the authority concerned.

4. In view of the limited prayer sought for to measure the property in the presence of the petitioner, on payment of the balance amount due as agreed by the petitioner viz., Rs.4,89,680/-, the authority will measure the property in the presence of the petitioner and thereafter, pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Madurai Corporation,
Madurai.

+ 1 CC TO MR.P.T.S.NARENDRAVASAN, ADVOCATE IN SR NO. 9345
+ 1 CC TO MR.N.SHANMUGA SELVAM, ADVOCATE IN SR NO.9617

AKV
TE/SK-SKN/: 03/03/2016 : 2P/4C

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