IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.10.2017
CORAM:
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A Nos.1294 and 1295 of 2013 and
M.P.No.1 of 2013

Steel Authority of India Limited
Rep. by its Authorised Signatory
Manali Warehouse,
Satangadu, Chennai - 600 068. ... Appellant in both Appeals

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary,
Department of Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

2.Thiruvottiyur Municipality,
Rep. by its Chairman,
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019.

3.The Commissioner,
Thiruvottiyur Municipality,
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019.

4.The Executive Authority
Thiruvottiyur Municipality
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019. ... Respondents in both appeals

PRAYER: Writ Appeals filed under clause 15 of the Letters Patent against the order dated 20.06.2012 in W.P.Nos.14328 and 14329 of 2008.

WP.No.14328 of 2008:Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records relating to the assessment order dated Nil bearing No.4301 passed by the third respondent and quash the same.

WP.No.14329/2008:Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of declaration holding that the levy of "Vacant Site tax" is ultra vires the powers of the Second respondent herein and unconstitutional.

For Appellants : Mr.M.S.Krishnan
Senior Counsel for
M/s.Sarvabhauman Associates

For Respondent : Mrs.A.Sri Jeyanthi,
Special Govt.Pleader for R1
Mr.V.C.Selva Sekaran
for R2 to R4

C O M M O N J U D G M E N T

K.K.SASIDHARAN,J.

The writ petitions filed by the appellant in W.P.Nos.14328 and 14329 of 2008 were dismissed by the learned single Judge on the ground that the High Court has already upheld the validity of levy of vacant site tax pursuant to the amendment made to the District Municipalities Act. The appellant has therefore come up with these two intra court appeals.

2. We have heard the learned Senior Counsel for the appellant. We have also heard the learned Special Government Pleader and the learned Standing Counsel for the Chennai Corporation, the Successor-in-interest of Tiruvottiyur Municipality.

3. The appellant filed writ petition in W.P.No.14329 of 2008 for a declaration that the Municipality has no power to demand and collect vacant site tax. The plea was negatived by the learned single Judge. The order is under challenge in W.A.No.1245 of 2013. The issue raised in this appeal is no more res integra in view of the judgment rendered by the Division Bench in S.Kannan v. The Commissioner, Nagercoil Municipality, Nagercoil, Kanyakumari District [2012-4-L.W.868]. The Division Bench upheld the validity of the statutory provision permitting the Municipality to demand and collect vacant land tax.

4. The appellant filed writ petition in W.P.No.14328 of 2008 challenging the levy of vacant land tax on different grounds, which includes collection of levy. The learned single Judge appears to have not considered the said issue. The learned single Judge focused mainly on the validity of the Act. Since there was no discussion with regard to the factual matrix and the issue raised by the appellant relating to fixation of vacant

land tax, we are of the view that the issue requires fresh consideration by the writ court.

5. The Tiruvottiyur Municipality has already been merged with the Chennai Corporation. We therefore permit the appellant to implead the Commissioner, Corporation of Chennai in the writ petition, which is the subject matter in W.A.No.1294 of 2013.

6. In the result, the intra court appeal in W.A.No.1294 of 2013 is allowed and the matter is remanded to the learned single judge for fresh consideration. The status quo with regard to collection of vacant land tax shall continue till the disposal of the writ petition by the learned single Judge. The intra court appeal W.A.No.1295 of 2013 is dismissed following the judgment in S.Kannan case (cited supra). No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1.The Secretary,
State of Tamil Nadu,
Department of Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Chairman,
Thiruvottiyur Municipality,
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019.

3.The Commissioner,
Thiruvottiyur Municipality,
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019.

4.The Executive Authority
Thiruvottiyur Municipality
945, T.H.Road, Kaladipet,
Thiruvottiyur, Chennai - 600 019.

5.The Deputy Registrar(Writ)
High Court, Chennai-104
(for ensuring posting of WP.14328/08)

6.The Section Officer
Writ Section
High Court, Madras

+1 cc to Govt Pleader sr 74724
+2 ccs to Govt Pleader sr 74312 & 74313

W.A Nos.1294 and 1295 of 2013

aa15/12/2017