

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition No.16363 of 2003  
and  
W.P.M.P.No.20453 of 2003

K.C.Ramalingam ..Petitioner

Vs

Executive Officer,  
Kurinjipadi Town Panchayat  
Kurinjipadi,  
Cuddalore District ..Respondent

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the orders passed by the respondent in his proceedings Na.Ka.No.A2/145/2003 dated 7.3.2003 and the consequential notice Na.Ka.No.A2/145/2003 dated 30.05.2003 and quash the same.

For Petitioner : Mr.P.Ganesan for  
Mr.S.Mani

For Respondent : Ms.Savitha Devi.M.

O R D E R

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner is the owner of Raja Kalai Arangam Cinema Theatre situated within the limits of Kurinjipadi Town Panchayat. The said Town Panchayat, by the impugned notice dated 07.03.2003 and also by the consequential notice dated 30.05.2003, has demanded arrears of property tax to the tune of Rs.32808.60, challenging which, the present writ petition has been filed.

3. At the time of admission of the writ petition, on 10.06.2003, this Court, has granted conditional stay of the

impugned orders, which reads as follows:-

"There shall be an order of interim stay subject to the petitioner depositing 50% of the demand in two equal instalments. The first of such instalment shall be paid within four weeks from the date of receipt of a copy of the order and the next instalment within four weeks thereafter. The petitioner shall continue to pay the property tax at the rate of 50% of the present demand, until further orders for the future years.

In default of payment of the conditions imposed, the stay will get automatically vacated".

3. It is the case of the petitioner that he had filed O.S.No.40 of 2000 before the District Munsif, Cuddalore, challenging the levy of property tax and has obtained an exparte decree on 06.11.2001 and therefore, the demand made by the respondent is illegal.

4. In my considered opinion of this Court, a Civil Suit against the Municipality challenging the levy is not maintainable, as an appeal/revision remedy is provided under the Tamil Nadu District Municipalities Act itself, as against an order of assessment.

5. In view of the above, this writ petition is dismissed, with liberty to the writ petitioner to file an appeal/revision before the appropriate authority, within a period of four weeks from the date of receipt of a copy of this order, challenging the impugned notice dated 07.03.2003 and the consequential order dated 30.05.2003. It is made clear that in the event of the writ petitioner succeeding in the appeal/revision, the Municipality shall refund the amount, if any, paid by the petitioner, pursuant to the interim order dated 10.06.2003 granted by this Court, of course, subject to the right of the Municipality to agitate the matter before the higher forum.

There will be no order as to costs. Connected miscellaneous petition is also dismissed.

sd/

Assistant Registrar(CO)

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Sub Assistant Registrar

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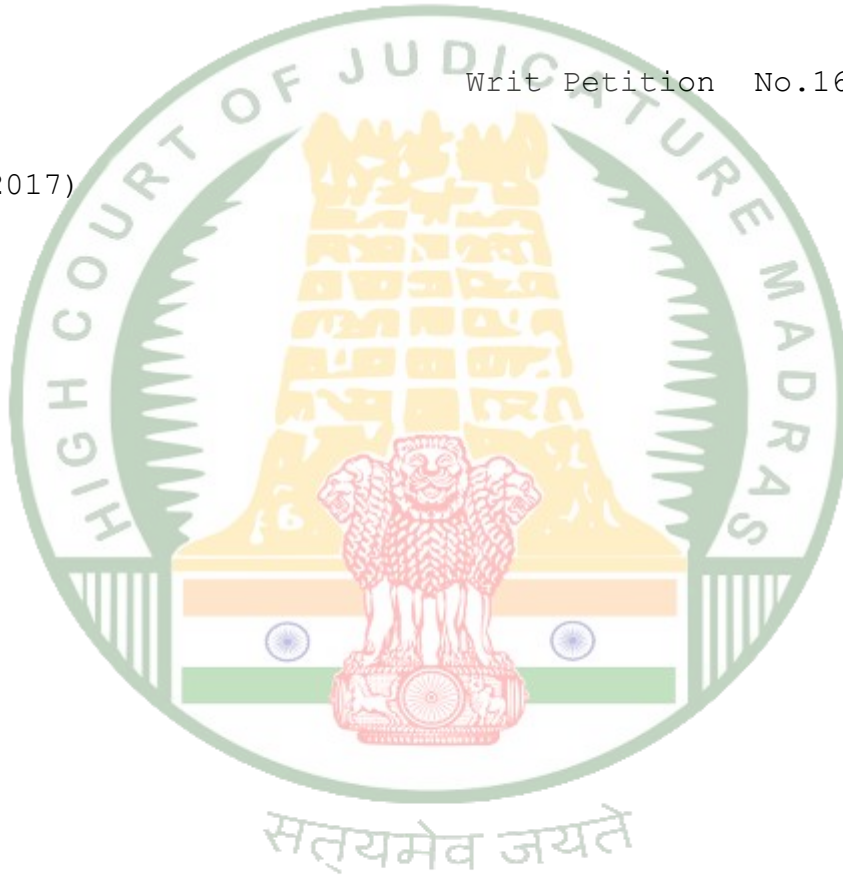
Executive Officer,  
Kurinjipadi Town Panchayat  
Kurinjipadi,  
Cuddalore District.

+1cc to Mr.R.Subramanian Advocate SR.No3631

+1cc to Mr.C.S.Associates Advocate SR.No.3812

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LRS (CO)  
GN(06/01/2017)



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