



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.13950 of 2014

and

M.P. (MD) Nos.1 of 2014 and 1 of 2015

The Pennington Committee,
Rep. by its Secretary,
S.Raghavan,
S/o.Srinivasan,
No.11,Nadagasalai Street,
Srivilliputtur Town,
Virudhunagar District.

... Petitioner

Vs.

1.The Commissioner,
Srivilliputtur Municipality,
Srivilliputtur - 626 125.

2.The Secretary,
Municipal Administration and
Water Supply Department,
Government of Tamilnadu,
Chennai.

... Respondents

(R2 is suo motu impleaded vide order of this Court, dated 24.07.2017 in WP(MD)No.13950/2014)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondent relating to his proceedings in Na.Ka.No.5062/2013/A5, dated 09.08.2014 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.V.Radhakrishnan
Senior Counsel
for Mr.S.Kadarkarai

For Respondents : Mr.J.Parekh kumar for R.1

Mr.M.Alagadevan,
Special Government Pleader for R.2

ORDER

This writ petition has been filed seeking a writ of Certiorari, to quash the impugned proceedings of the first respondent in Na.Ka.No.5062/2013/A5, dated 09.08.2014, in and by which, the petitioner was directed to remit 15% of the gross rental income to the first respondent Corporation towards licence fee.

2. Brief facts leading to the filing of this writ petition are as follows:

2.1. The petitioner is the Secretary of the Pennington Committee which was started by some public spirited citizens of Srivilliputtur Taluk in the year 1875. They purchased a site at Srivilliputtur Town and put up a small building to house the library therein and also purchased some sites and built a market with shops around the said library. The rents received from the shops were utilised for maintaining the library. The library and the market were named after one Mr.Pennington, former District Collector of the then Tirunelveli District, of which, Srivilliputtur Town was a part.

2.2. The petitioner Committee was registered in the year 1882 under the provisions of the Societies Registration Act, 1860 (Central Act 21 of 1860) and after commencement of the Tamil Nadu Societies Registration Act, 1975, the petitioner Committee is deemed to have been registered under the provisions of the said Act and the bye-laws of the petitioner Committee continued to be in force.

2.3. The petitioner Committee owns about 240 shops on both sides of Rajaji Road, Srivilliputtur Town, known as Pennington Market. Some of the tenants of those shops were not regularly paying the rents to the petitioner Committee and hence, 74 civil suits were filed, of which, 20 civil suits were decreed and the remaining suits are still pending.

2.4. While so, the first respondent sent a notice dated 16.12.2009 as per Section 262-A of the Tamil Nadu District Municipalities Act, 1920, calling upon the petitioner Committee to pay 15% of the gross rental income derived from the market. The petitioner Committee sent a reply dated 26.04.2010 praying the first respondent to waive the licence fee as the entire income derived from the market is being utilised only to run the library, which, ultimately would be in the interest of the public.

2.5. However, the first respondent sent another notice <https://hcservices.gov.in/services> to the petitioner Committee to remit the licence fee from 2009-2010 to 2012-2013, for which, the petitioner Committee submitted a reply dated 06.09.2013 claiming waiver. Thereafter,



the first respondent issued the impugned proceedings dated 09.08.2014 directing the petitioner Committee to remit 15% of the gross rental income derived from the market within one week from the date of receipt of the said notice. Aggrieved thereby, the present writ petition is filed.

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3. Mr.V.Radhakrishnan, learned Senior Counsel appearing for Mr.S.Kadarkarai, learned Counsel for the petitioner, made the following submissions:

3.1. The first respondent in exercise of Section 262-A of the Tamil Nadu District Municipalities Act, 1920, issued the impugned proceedings dated 09.08.2014, calling upon the petitioner to remit 15% of the gross rental income derived from the shops in the Pennington Market.

3.2. The first respondent - Municipality did not resolve to collect 15% of gross rental income derived by the petitioner Committee.

3.3. The Commissioner of the first respondent Municipality unilaterally issued the impugned proceedings based on an audit report, which according to the petitioner, is contrary to the provisions of Section 262-A of the Act.

3.4. The petitioner Committee is paying a sum of Rs.6,18,016/- (Rupees Six Lakhs Eighteen Thousand and Sixteen only) per year as property tax to the first respondent - Municipality and hence, the provisions of Section 262-A of the Act are not applicable to the petitioner Committee.

3.5. The petitioner Committee being a Public Charitable Trust, is rendering service to the public and hence, the petitioner Committee sought for waiver of licence fee with the first respondent, however, the same has been rejected.

3.6. The impugned proceedings dated 09.08.2014 issued by the first respondent Municipality calling upon the petitioner Committee to remit 15% of gross rental income is untenable and thus, prayed for allowing this writ petition.

4. Per contra, Mr.J.Parekh Kumar, learned Counsel for the first respondent contended that the petitioner without availing the effective alternative remedy of appeal under Section 322 of the Act, has filed the present writ petition and hence, on that ground alone, this writ petition is liable to be dismissed. Further, it is contended that private markets are required to remit licence fees to the Municipality and hence, the petitioner is liable to pay the licence fee at the rate of 15% of gross rental income and thus, the impugned proceedings dated 09.08.2014 is in order and it warrants no interference at the hands of this Court and therefore, prayed for the dismissal of this writ petition.

<https://hcservices.ecourts.gov.in/hcservices> the submissions of Mr.M.Alagathevan, learned Special Government Pleader appearing for the second respondent also.



6. I have considered the rival submissions and scrutinised the materials available on record.

7. On a thorough scanning of the materials available on record, this Court could cull out the importance of the library, known as "Pennington Library" thus:

- Pennington Library was started in the year 1875 with the help of Mr.J.B.Pennington, former District Collector of the then Tirunelveli District, of which, Srivilliputtur Town was a part.
- The petitioner Committee purchased vacant sites at Srivilliputtur Town and built a library and a market as well.
- The library is housed in its own building measuring about 1,343.98 sq. mtrs.
- The library is having rare collections of books, viz., 36,293 of Tamil Books and 31,174 of English Books, besides Government Gazettes.

8. However, the petitioner Committee found it difficult to run the library out of the rents received from the shops in the Pennington Market and according to the petitioner Committee, several civil suits are still pending with regard to collection of rents. Hence, the petitioner Committee claimed waiver of licence fee from the first respondent and the said request is being rejected for several years. Meanwhile, the impugned proceedings came to be issued, in and by which, the petitioner Committee was directed to remit 15% of the gross rental income derived from the Pennington Market.

9. Considering the issue involved in this writ petition, this Court, by order dated 24.07.2017, *suo motu* impleaded the Secretary to the Government, Municipal Administration and Water Supply Department, Chennai, as party respondent in this writ petition.

10. This Court, in an endeavour to safeguard the interest of one of the oldest libraries in our State having precious collections, directed the learned Special Government Pleader appearing for the second respondent to get instructions from the Government, so as to accede with the prayer of the petitioner Committee with regard to waiver of licence fee.

11. Today, when the matter is taken up for hearing, the learned Special Government Pleader appearing for the second respondent, on instructions, fairly submits that the respondents are ready to concede with the request of the petitioner for waiver of licence fee and hence, prays for appropriate orders.



12. In view of the same, the impugned proceedings of the first respondent in Na.Ka.No.5062/2013/A5, dated 09.08.2014 stands quashed and the matter is remitted to the first respondent for consideration. Accordingly, the respondents are directed to consider the claim of the petitioner for waiver of licence fee for the Pennington Library and pass appropriate orders to that effect, within a period of six weeks from the date of receipt of a copy of this order.

13. In fine, this writ petition is allowed as above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1.The Commissioner,
Srivilliputtur Municipality,
Srivilliputtur - 626 125.

2.The Secretary,
Municipal Administration and
Water Supply Department,
Government of Tamilnadu,
Chennai.

+One cc to Mr.S.Kadarkarai, Advocate, SR.No.80118

+One cc to Mr.P.Srinivas, Advocate, SR.No.80558

ta/rsb

RL/5C/5P/MR/KKR/SAR2/20/10/2017

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