BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2017

C O R A M

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.(MD)No.22913 of 2017
and
W.M.P.(MD)No.19216 of 2017

Varadharasan ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Administration,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Municipal Corporation,
Municipal Administration,
6th Floor, Ezhilagam,
Annex Building,
Chepauk, Chennai - 5.

3.The Commissioner,
Madurai Corporation,
Madurai - 625 002. ...Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, calling for the records of the 3rd respondent relating to his impugned notice dated Nil and to quash the same.

For Petitioner : Mr.M.Karunanithi

For Respondents : Mr.M.Alagathevan,
Special Government Pleader
for R.1 & R.2
Mr.T.S.Mohamed Mohideen,
Additional Government Pleader
for R.3

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O R D E R

Challenging the impugned notice of the third respondent, dated NIL, vide which, the petitioner was directed to pay enhanced monthly rent, which was sought to be revised as per G.O.Ms.No.92 Municipal

Administration and Water Supply Department dated 03.07.2007, this writ petition has been filed.

2. Mr.M.Alagathevan, learned Special Government Pleader, takes notice for the respondents 1 & 2. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the third respondent.

3. By consent, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he was granted licence to run a Primary School, in the place belonging to the third respondent, by proceedings dated 06.02.2006. Since then, the petitioner has been running a school, by name, 'Maniammai Nursery and Primary School', from LKG to 5^{th} standard, for which, the petitioner was regularly paying a sum of Rs.7,150/- towards monthly rent, which was subsequently, revised as Rs.10,876/- per month. When things stood thus, without any reasonable cause, the present impugned notice came to be issued, directing the petitioner to pay the enhanced monthly rent of Rs.6,67,894/-. Aggrieved over the same, the petitioner is before this Court.

5. The learned Additional Government Pleader, on instructions, submitted that the petitioner is a licensee of the third respondent and after the expiry of nine years, the rent was enhanced, strictly as per the provisions enacted under G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007.

6. In reply, the learned counsel for the petitioner submitted that 'Education' is nothing but a 'charitable and philanthropic' activity and the petitioner is running a Primary School, purely on philanthropic lines and not as a commercial venture. The legislature, in its wisdom, has given exemption to the educational buildings, which are run purely on philanthropic lines as are approved by the Council of Corporation only. Without taking into account these facts, the present impugned notice came to be passed, enhancing the rent from Rs.10,876/- to a whopping amount of Rs.6,67,894/- per month, which is liable to be interfered at the threshold.

7. The learned counsel for the petitioner further submitted that the place in which the school is run is owned by the third respondent, which is exempted from levy of property tax under Section 122 (c) of the Madurai City Municipal Corporation Act, 1971 (for short, 'the Act'). Since Education, by itself, is 'charitable and philanthropic' in nature and the buildings used for such purpose are exempted from the very levy of property tax, the impugned notice issued by the third respondent, enhancing the monthly rent of the building used for the said purpose is, *per se*, illegal and improper.

8. Heard the learned counsel appearing on either side and perused the documents placed on record.

9. Concededly, the place in which the school is run, in respect of which, the impugned notice came to be issued by the third respondent, enhancing the rent, belongs to the third respondent and the same is being used for educational purpose. A perusal of the impugned notice would show nothing, except that the rent was enhanced as per G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007 and resolution of the Council. It is absolutely unacceptable that the rent has been enhanced from Rs.10,876/- to a gargantuan amount of Rs.6,67,894/- per month, that too, for a Primary School and no reason whatsoever is adduced for such an unimaginable exorbitant claim. It is needless to point out that reasoning is the heartbeat of a conclusion.

10. Of-course, the third respondent can enhance the rent, as per the provisions of the Act, but, while doing so, the claim of enhancement should be just, reasonable and supported by material documents. In the case at hand, a bare reading of the enhancement notice, which is impugned herein, would clearly reflect the non-application of mind on the part of the third respondent and violation of the legal principles for such claim.

11. Undoubtedly, this Court, even in the cases of enhancement of rent as per G.O.Ms.No.92 for commercial establishments, has directed the authorities to consider the objections of those petitioners along with supporting documents, on merits, whereas, the premises involved in the present case is, no doubt, for a Primary School, a philanthropic institution, which is imparting Education, with limited students.

12. At this juncture, it is noteworthy that Section 122(c) of the Act, grants exemption to schools from levy of property tax, which, for better appreciation, is profitably extracted hereunder:

"122. General exemption from property tax.-

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> *(c) Building used for "educational purposes" including hostels attached thereto and places used for the charitable purpose of Sheltering the destitute or animals and orphanages, homes and schools for deaf and dumb, asylum for the aged and fallen women and such similar institutions* run *purely on philanthropic lines as are approved by the Council."*

The above provision would make it clear that the buildings and the places used for educational purpose, which is charitable and philanthropic in nature, can be exempted from levy of property tax. When such is the position, this Court is of the view that the yardstick applied qua levy of property tax in the case of the educational institution, can be applied even qua enhancement of rent.

13. In such perspective of the matter, this Court has no other option, except to set aside the impugned notice for its unreasonable and exorbitant claim of monthly rent. Accordingly, the impugned notice, dated NIL, issued by the third respondent is set aside. The petitioner is permitted to pay the existing rent, without any default.

14. This Writ Petition is disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
Municipal Administration,
The State of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Municipal Corporation,
Municipal Administration,
6^{th} Floor, Ezhilagam,
Annex Building,
Chepauk, Chennai - 5.

3.The Commissioner,
Madurai Corporation,
Madurai - 625 002.

+One cc to Mr.M.Karunanithi, Advocate, SR.No.92686

+One cc to The Special Government Pleader, SR.No.93159

gk
RL/6C/4P/KK/SAR4/19/1/2018

W.P.(MD)No.22913 of 2017

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