IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2018

CORAM :

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P. No.8054 of 2017
and W.M.P.Nos.8805 of 2017 and 19206 of 2018

Radha Soami Satsang Beas,
Rep. by Area Secretary (Tamil Nadu)
No.62, Poonamallee Bye-pass Road,
Chennai 600 056. .. Petitioner

-vs-

1.The Secretary to Government,
Municipal Administration & Water
Supply Dept., Govt. of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Commissioner of Municipal
Administration, Chepauk,
Chennai 600 005.

3.The Commissioner,
Poonamallee Municipality,
Municipal Office, 1A, Kandasamy Nagar,
Trunk Road, Poonamallee,
Chennai 600 056. .. Respondent

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent pursuant to issue of the impugned Distress Warrant No.0253 dated 22.03.2017 and quash the same and thereby direct the 1st and 2nd respondents to consider the representations dated 28.11.2016 and reminder dated 06.03.2017 seeking for exemption of the petitioner from payment of property tax throughout the State of Tamil Nadu.



For Petitioner : M/s.Vasudha Thiagarajan

For Respondent : Mr.R.Sivakumar for R-3

O R D E R

Heard M/s.Vasudha Thiagarajan, learned counsel appearing for the petitioner and Mr.R.Sivakumar, learned counsel appearing for the 3rd respondent Municipality.

2.The petitioner is a Society registered under the Societies Registration Act, 1860, on 11.10.1957. The petitioner would state that the premises owned by them, which falls within the jurisdiction of the third respondent Municipality, is used as a place for conducting 'Satsung' and similar such centres are situated throughout the State of Tamil Nadu as well as in several parts of the country.

3.In this writ petition, the petitioner is aggrieved by the distraint notice issued by the third respondent Municipality threatening action against the petitioner for non-payment of the arrears of property tax from the Assessment Years 2016-17, in respect of three assessments bearing Nos.010/927, 010/928 and 010/929. The petitioner's case is that they are a spiritual organization and they are entitled for being granted exemption from payment of property tax.

4.The learned counsel appearing for the petitioner has drawn the attention of this Court to the averments made in the affidavit filed in support of the writ petition about the exemption granted in other States in the country. Though such an averment is there in the affidavit filed in support of the writ petition, such services do not find place in the typed set of papers. Be that as it may, the learned counsel for the petitioner would emphatically submit that the petitioner Society has been granted exemption from payment of property tax in places where they have established 'satsung' centres. Further, it is orally submitted by the learned counsel that recently the Corporation of Chennai has also granted an order of exemption.

5.Though, according to the petitioner, the nature of activities done in the building in question would entitle them to an order of exemption, unless and until the property has been exempted from payment of property tax, the petitioner is duty bound to remit the property tax. Admittedly, the petitioner purchased the property, which was already constructed and such constructed property would have been assessed to property tax. Thus, the petitioner, as a successor in title, cannot resist the demand issued by the respondent Municipality, but they would be entitled to apply for exemption from payment of tax considering the nature of activity being done in the property.

6.The petitioner has already submitted representation to the third respondent Municipality requesting for exemption by representation dated 18.11.2016 followed by a reminder dated 06.03.2017 and also given representation to other higher authorities. The learned counsel for the petitioner has also produced photographs to show the nature of activity done in the said property and would state that there is a huge shed with steel roof open on all sides, which is used as 'satsung' centre.

7.These issues are to be dealt with by the third respondent Municipality. However, in the interregnum, this Court is inclined to grant protection to the petitioner, subject to condition. Accordingly, the petitioner is directed to pay a sum of Rs.75,000/- (Rupees seventy five thousand only) to the third respondent Municipality, without prejudice to their rights and contentions and this payment shall be made within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of the payment, the third respondent Municipality is directed to consider the petitioner's application for exemption dated 18.11.2016 by conducting inspection of the property owned by the petitioner, after due notice to the petitioner. Based upon the findings of such inspection report, the third respondent Municipality shall afford an opportunity of personal hearing to the authorised representative of the petitioner, examine the documents that they may produce and pass a speaking order in accordance with law, within a period of three (3) months from the date on which the inspection is completed. Upon payment of a sum of Rs.75,000/- as directed by this Court, the respondent shall not initiate any coercive action against the petitioner.

8.Though the petitioners in this writ petition seek for a relief to direct respondents 1 and 2 to consider the applications filed by them for grant of exemption in respect of other buildings, which are owned by them in the State of Tamil Nadu, such a relief cannot be granted in this writ petition, as this writ petition concerns the property falling within the jurisdiction of the third respondent municipality. However, it is open to the petitioners to pursue the appropriate authority in respect of their claim for exemption for the other properties owned by them in the State of Tamil Nadu.

9.With the above directions, the writ petition is disposed of. No costs. Consequently, W.M.P.No.8805 of 2017 and 19206 of 2018 are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Secretary to Government,
Municipal Administration & Water Supply Dept., Govt. of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Commissioner of Municipal Administration, Chepauk, Chennai 600 005.

3.The Commissioner,
Poonamallee Municipality,
Municipal Office, 1A, Kandasamy Nagar,
Trunk Road, Poonamallee,
Chennai 600 056.

+2cc to Mr.R.Thiagarajan, Advocate, S.R.No.46501
+1cc to Mr.R.Siva Kumar, Advocate, S.R.No.46293

W.P.No.8054 of 2017

GSP(26/07/2018)