

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.14149 of 2010

&

MP.No.1 of 2010

Rev.S.Jacob Selvan

... Petitioner

(amended as per the order of this Court
dated 05.08.2016 in MP.No.1/2013)

Vs.

1. The Commissioner,
Ambattur Municipality,
Ambattur, Chennai - 600 053.
2. The Assistant Revenue Officer,
Revenue Department,
Zonal Office VII, Corporation of Chennai,
MTH Road, Opp.To Dunlop,
Ambattur, Chennai - 53.

(R2 impleaded as per the order of this Court
dated 05.08.2016 in MP.No.2 of 2013)

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent herein in Notice No.Na.Ka.No.333/09/A6, dated 04.06.2010 signed on 09.06.2010 and based on attachment Notice dated 30.06.2010 and quash the same.

For Petitioner : Mr.A.R.Nixon

For R1 & R2 : Mr.K.Soundararajan

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O R D E R

Challenging the notice dated 04.06.2010 and the final notice dated 30.06.2010, the petitioner has come up with the present writ petition. By the impugned notices, the petitioner was directed to pay a sum of Rs.19,60,875/- towards arrears of property tax from the second half year of 2005-06 to the second half year of 2010-11.

2.It is the case of the petitioner that the petitioner is a charitable institution, which is exempted from payment of property tax as per Section 83(1) of the Tamil Nadu Municipalities Act, 1920. However, the first respondent issued the impugned notices demanding property tax, as if, a portion of the building belonging to the petitioner is used as marriage hall by collecting rent, which, according to the petitioner, is without conducting proper enquiry. Hence, this writ petition.

3.Upon notice, the second respondent filed a detailed counter affidavit, inter alia, stating that the petitioner has not produced adequate documents to prove that the building is utilized only for charitable purpose. It is further averred therein that the church alone is eligible for exemption from payment of property tax, but not Parish hall situated within the premises and hence, the demand notices came to be issued to the petitioner.

4.Denying the averments made in the counter affidavit, the learned counsel for the petitioner submitted that without conducting proper enquiry, the impugned demand notices were issued by the first respondent. It is his specific stand that there is no commercial activity being carried on in the premises in question.

5.Per contra, the learned counsel for the respondents reiterated the same averments as were made in the counter affidavit.

6.Irrespective of the submissions made by the learned counsel on either side, this Court, in the interests of justice, directs the petitioner to submit his objections to the notices impugned herein by treating it as show cause notices, along with necessary documents, to the Corporation of Chennai, Zone VII, Chennai, who is now, vested with the jurisdiction, as stated by the learned counsel for the respondents, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the Corporation of Chennai, Zone VII, Chennai, shall consider the same, after conducting necessary enquiry and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of four weeks thereafter. While passing such order, the authority concerned shall take into consideration the stand of the petitioner that no commercial activity is being carried on in the premises in question, in the light of the documents produced by him.

7.This writ petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

// True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Ambattur Municipality,
Ambattur, Chennai - 600 053.
2. The Assistant Revenue Officer,
Revenue Department,
Zonal Office VII, Corporation of Chennai,
MTH Road, Opp.To Dunlop,
Ambattur, Chennai - 53.

+1cc to Mr.K.Soundararajan , Advocate SR.No.52342

W.P.No.14149 of 2010

RMP (25/09/2018)

सत्यमेव जयते

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