



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Twelfth day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice T.S.SIVAGNANAM
and
The Hon`ble Mrs.Justice R.THARANI

Rev.Aplc(MD)Nos.77 to 84 of 2018
in W.A.(MD)Nos.328 to 335 of 2018
and
C.M.P.(MD)Nos.6801 to 6808 of 2018

BHARAT SANCHAR NIGAM LIMITED
REP.THROUGH ITS DEPUTY GENERAL MANAGER,
(CFA & ADMIN),NAGERCOIL,
KANYAKUMARI DISTRICT.

... APPELLANT/ APPELLANT
IN ALL THE PETITIONS

Vs

THE COMMISSIONER
NAGERCOIL MUNICIPALITY,
NAGERCOIL,
KANYAKUMARI DISTRICT.

... RESPONDENT/ RESPONDENT
IN ALL THE PETITIONS

Prayer in REV.APLC(MD). 77/ 2018 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to prepare this review petition against the order passed by this Hon`ble Court in W.A.(MD).No.328 of 2018 dated 01/03/2018 on the file of this Hon'ble Court and set aside the same.

Prayer in REV.APLC(MD). 78/ 2018 :

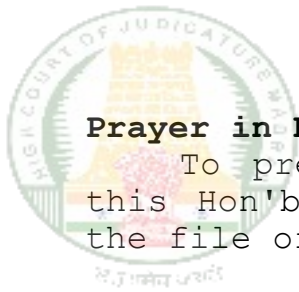
To prepare this review petition against the order passed by this Hon'ble Court in W.A.(MD).No.329 of 2018 dated 01/03/2018 on the file of this Hon'ble Court and set aside the same.

Prayer in REV.APLC(MD). 79/ 2018 :

To prepare this review petition against the order passed by this Hon'ble Court in W.A.(MD).No.330 of 2018 dated 01/03/2018 on the file of this Honble Court and set aside the same.

Prayer in REV.APLC(MD). 80/ 2018 :

To prepare this review petition against the order passed by Hon'ble Court in W.A.(MD).No.332 of 2018 dated 01/03/2018 on the file of this Hon'ble Court and set aside the same.



Prayer in REV.APLC(MD) . 81/ 2018 :

To prepare this review petition against the order passed by this Hon'ble Court in W.A.(MD).No.331 of 2018 dated 01/03/2018 on the file of this Honble Court and set aside the same.

Prayer in REV.APLC(MD) . 82/ 2018 :

To prepare this review petition against the order passed by this Hon'ble Court in W.A.(MD).No.333 of 2018 dated 01/03/2018 on the file of this Honble Court and set aside the same.

Prayer in REV.APLC(MD) . 83/ 2018 :

To prepare this review petition against the order passed by Hon'ble Court in W.A.(MD).No.334 of 2018 dated 01/03/2018 on the file of this Honble Court and set aside the same.

Prayer in REV.APLC(MD) . 84/ 2018 :

To prepare this review petition against the order passed by Hon'ble Court in W.A.(MD).No.335 of 2018 dated 01/03/2018 on the file of this Honble Court and set aside the same.

COMMON PRAYER IN W.A. (MD) Nos.328 to 335 of 2018:

Writ Appeals are filed under Clause 15 of Letters Patent, to set aside the order dated 06.10.2017 made in W.P.(MD) Nos.15966 to 15973 of 2017 on the file of this Court.

Prayer in WP(MD) . 15966/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01717-150/74717, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,65,35,183/- M.F.No.25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No.1, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15967/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01718-150/74718, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 1/1, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15968/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01719-150/74719, from the



petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 1/2, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15969/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01720-150/74720, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 1/3, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15970/ 2017 :

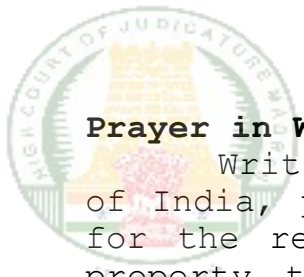
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01721-150/74721, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- M.F.No.25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No.1/4, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15971/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01722-150/74722, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 1/1, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in WP(MD) . 15972/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01723-150/74723, from the petitioner for the period from 2002 - 2003- II to 2017-2018 -II for Rs. 1,23,721/- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 1/6, Water Tank Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice and for such other reliefs.



Prayer in WP(MD) . 15973/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01716-150/74716, from the petitioner for the period from 2007 - 2008- I to 2017-2018 -II for Rs. 25,20,606 /- in M.F.No. 25-I-II, Nagercoil Municipality dated 21.07.2017 for the premises No. 24/A, Court Road, Nagarcoil - 629 001, Kanyakumari District, and to quash the same as malafide, contrary to law and against the principles of Natural Justice.

Prayer in CMP(MD) . 6801/ 2018 in REV.APLC(MD) . 77/ 2018 :

To pass order to stay all further proceeding in WA.(MD). No.328 of 2018 dated 01/03/2018, pending the disposal of above Review Application.

Prayer in CMP(MD) . 6802/ 2018 in REV.APLC(MD) . 78/ 2018 :

To pass order to stay all further proceeding in WA.(MD). No.329 of 2018 dated 01/03/2018, pending the disposal of above Review Application.

Prayer in CMP(MD) . 6803/ 2018 in REV.APLC(MD) . 79/ 2018 :

To pass order to stay all further proceeding in WA.(MD). No.330 of 2018 dated 01/03/2018, pending the disposal of above Review Application.

Prayer in CMP(MD) . 6804/ 2018 in REV.APLC(MD) . 80/ 2018 :

To pass order to stay all further proceeding in WA.(MD). No.332 of 2018 dated 01/03/2018, pending the disposal of above Review Application.

Prayer in CMP(MD) . 6805/ 2018 in REV.APLC(MD) . 81/ 2018 :

Pleased to pass order to stay all further proceeding in W.A (MD) No.331 of 2018 dated 01.03.2018, pending the disposal of above Review Application and thus render justice.

Prayer in CMP(MD) . 6806/ 2018 in REV.APLC(MD) . 82/ 2018 :

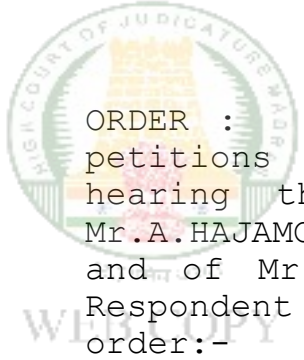
Pleased to pass order to stay all further proceedings in W.A(MD) No.333 of 2018 dated 01.03.2018, pending the disposal of above Review Application and thus render justice.

Prayer in CMP(MD) . 6807/ 2018 in REV.APLC(MD) . 83/ 2018 :

Pleased to pass order to stay all further proceeding in W.A (MD) No.334 of 2018 dated 01.03.2018 pending the disposal of above Review Application and thus render justice.

Prayer in CMP(MD) . 6808/ 2018 in REV.APLC(MD) . 84/ 2018 :

Pleased to pass order to stay all further proceeding in W.A.(MD) No.335 of 2018 dated 01.03.2018, pending the disposal of above Review Application and thus render justice.



ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.R.D.AGARWALA, Senior Counsel for Mr.A.HAJAMOHIDEEN, Advocate for the petitioner in all the petitions and of Mr.P.ATHIMOOLAPANDIAN, Standing Counsel on behalf of the Respondent in all the petitions, the court made the following order:-

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard Mr.R.D.Agarwala, learned Senior Counsel assisted by Mr.Pawan Kumar and Mr.A.Hajamohideen, learned Standing counsel for BSNL/the review petitioner and Mr.P.Athimoolapandian, learned Standing Counsel for the respondent Municipality.

2. These review applications have been filed on the ground that the judgment and order passed in W.A.(MD)Nos.328 to 335 of 2018 suffers from certain errors, which are apparent on the face of the judgment.

3. After we elaborately heard the learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondent, we are inclined to hear the review applications on the following grounds :

(i) Whether the demand of property tax made by the respondent Municipality for the period from second half of 2002-2003 to second half of 2017-2018 is in violation of Article 285 of the Constitution of India and should it be declared to be illegal ?

(ii) Whether BSNL is liable to pay the property tax as per Official Memorandum dated 17.12.2009, wherein, it is stated that the BSNL is liable to pay only service tax and no property tax to be paid by the Union of India ?

(iii) Whether the respondent Municipality failed to consider the communication of the Chief Engineer of BSNL dated 18.03.2016 that from the date of mutation alone, the property tax is liable to be paid that too after scrutinizing and certifying by the Superintendent Engineer, Civil ?

(iv) If, BSNL is liable to pay the property tax, then whether it should be from the date of mutation of the property in its name as per the proceeding dated 17.06.2016 ?

4. Learned counsels on either side will advance their arguments to the above questions and they are at liberty to file documents and decisions in support of their claim. The learned counsels are also at liberty to exchange the documents and decisions among themselves and be ready for arguments on the next hearing date.



5. At this juncture, the learned Senior Counsel for the review petitioner submitted that the directions contained in paragraph 8 of the judgment dated 01.03.2018 in W.A.(MD)Nos.328 to 335 of 2018, is implemented, the officers and staff of the petitioner will be put to great prejudice.

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6. Learned counsel for the respondent Municipality submitted that already water supply and drainage connection have been disconnected with effect from 16.04.2018.

7. Considering the fact that we are inclined to hear the review applications, 50% of the demand has been paid, and as on date the remaining 50% is more than Rs.1 Crore and also taking note of the fact that the general public also visiting the petitioner office, we direct the respondent Municipality to restore the water supply connection and drainage connection to the petitioner building, subject to the condition that the petitioner pays a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the respondent Municipality within a period of four weeks from the date of receipt of a copy of this order.

8. If this condition is complied with, the water supply connection as well as the drainage connection shall be restored forthwith and till the review applications are decided, no coercive action shall be taking against the petitioner in respect of the remaining amount, which shall remain stayed.

9. Post these applications on 30.11.2018.

sd/-
12/10/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE COMMISSIONER
NAGERCOIL MUNICIPALITY,
NAGERCOIL,
KANYAKUMARI DISTRICT.

ORDER IN
Rev.Aplc(MD)Nos.77 to 84 of 2018
in W.A.(MD)Nos.328 to 335 of 2018
and
C.M.P.(MD)Nos.6801 to 6808 of 2018
Date :12/10/2018