



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI

WA (MD) Nos.328 to 335 of 2018
and
C.M.P.(MD) Nos.2074 to 2081 of 2018
in W.P.(MD) Nos.15966 to 15973 of 2017

Bharat Sanchar Nigam Ltd.,
rep. Through its Deputy General
Manager (CFA & Admin)
Nagercoil,
Kanyakumari District.

... Appellants in all appeals

Versus

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District.

... Respondents in all appeals

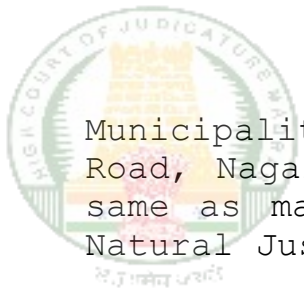
Writ Appeals are filed under Clause 15 of Letters Patent, to set aside the order dated 06.10.2017 made in W.P.(MD) Nos.15966 to 15973 of 2017 on the file of this Court.

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 :

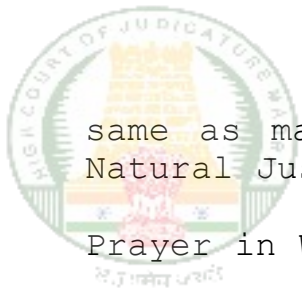
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the respondents impugned notice for demand of property tax in Assessment No. 150/045/01720-150/74720, from the petitioner for the period from 2002 - 2003- 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.

In all appeals

For Appellant

: Mr.A.Haja Mohideen

For Respondents
(in all Appeals)

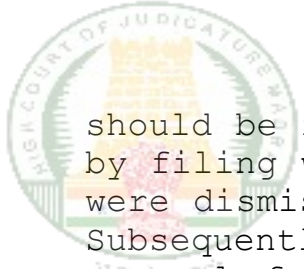
: Mr.P.Athimoola Pandian,
st.counsel

COMMON JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**)

Heard Mr.A.Haja Mohideen, learned counsel for the appellant and Mr.P.Athimoola Pandian, learned standing counsel for the respondent Municipality.

2.These appeals are directed against the order dated 06.10.2017 made in W.P.(MD) Nos.15966 to 15973 of 2017. The appellant/petitioner is the Bharat Sanchar Nigam Limited (hereinafter called as BSNL). They filed the writ petitions challenging the demand notices issued by the respondent Municipality, demanding property tax for their premises in Water Tank Road, Nagercoil, which admittedly is in the heart of the town. The writ petitions were entertained and an order of interim stay was granted subject to the condition that 50% of the demand



should be remitted. The said interim order was challenged by BSNL by filing writ appeals in W.A.(MD) Nos.1282 to 1289 of 2017, which were dismissed by the Division Bench by judgment dated 22.09.2017. Subsequently, when the writ petitions were heard, the learned counsel for the respondent Municipality placed the communication of the Chief General Manager, Tamil Nadu Circle, Chennai, BSNL, wherein, it was stated as follows:

"In this connection, letter referred under reference No.3(copy enclosed) may kindly be seen, wherein it was stated that the case has been examined in consultation with CS & GM (Legal), Corporate Office and considered opinion has emerged that challenging the imposition of property tax by Local Bodies in a Court of law may not yield success and the payment of property tax appears to be imminent and therefore, to be paid. Since the calculation of property tax is complex matter involving engineering calculations of land and building areas including evaluation of cost, where applicable. Further, it was instructed that Circles/SSA Heads to get all the property tax assessment done through CE (Civil)/SE/(Civil) as enunciated in the letter referred under reference No.2 and also to send the statement of Taxes paid/to be paid to BSNL Corporate Office."

3.The writ Court, after taking note of the above communication, which states that the taxes should be paid, held that there cannot be any dispute with regard to the payment of property tax and accordingly, dismissed the writ petitions and directed the remaining 50% of the demanded amount to be paid.

4.We are of the prima facie view that there was no proper inspection of the appellant's building and certain issues such as limitation are being canvassed by BSNL authorities. It may be required to be considered.

5.Upon hearing the learned standing counsel for the Corporation, we find that BSNL has dragged the respondent Corporation to civil litigation in O.S.No.209 of 2011 on the file of the District Munsif, Nagercoil raising certain issues, which was dismissed. As against which, BSNL preferred first appeal in A.S.No.41 of 2015 on the file of the Principal Sub Judge, Nagercoil and the said appeal was also dismissed by the lower appellate Court by judgment dated 03.03.2017. The learned counsel for the appellant submitted that as against which BSNL has preferred second appeal before this Court in which, notice has been ordered and admittedly, there is no interim order.

<https://hcservices.courts.gov.in/hcservices/> 6. Thus, we find that there is no error in the order passed by the writ Court in rejecting the prayer sought for. Therefore, the



writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

7. After the above order was dictated, the learned counsel for the appellant submitted that reasonable time may be granted to BSNL to pay the arrears of property tax.

8. Considering the stand taken by the Chief General Manager, which has to be obeyed by the appellant, because, he is his Superior Officer, we direct that the arrears of property tax as demanded in all the demands, which were impugned in the writ petition to be settled within a period of three weeks from the date of receipt of a copy of this judgment. Current tax shall be paid properly. If there is any default of this order, the respondent Municipality are directed to disconnect the water supply and drainage to the appellant's building.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District.

+ 8 ccs TO Mr.A.Haja Mohideen , Advocate in SR No. 52400

Arul
AE/KKR/SAR2/20.03.2018/5P/10C

Judgment made in
WA (MD) Nos.328 to 335 of 2018
and
C.M.P. (MD) Nos.2074 to 2081 of 2018
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