BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A.(MD)No.290 of 2011
and
M.P.(MD)No.1 of 2011

Mathuraiyil Virudhunagar Aruppukottai
Palayampatti Indhu Nadarhal
Uravinmuraigalukku Pathiyamana
Pothu Paribalana Sabai,
Registered Society No.1 of 1978,
represented by its Secretary P.C. Elayaperumal,
having office at Nos.114 & 115 /237,
East Masi Street,
Madurai 625 001. ... Appellant/Petitioner

Vs.

1. The Principal Secretary to Government,
   Government of Tamil Nadu,
   Fort St. George,
   Chennai 600 009.

2. The Director of Urban Land Ceiling and
   Urban Land Tax,
   Chepauk,
   Chennai 600 005.

3. The Assistant Commissioner,
   Land Reforms,
   Madurai 625 002. ... Respondents/Respondents

<u>PRAYER :</u> Writ Appeal is filed under Clause 15 of Letters Patent, against the order dated 06.01.2011 passed in W.P.(MD).No.7455 of 2010 on the file of this Court.

Prayer in WP(MD). 7455/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the proceedings in Letter (Ms.) No.148/ULC3(2) dated 18.5.2009 on the file of the first respondent herein and to quash the same and direct the first respondent to grant exemption to the lands owned by the petitioner Sabai from the application of the provisions of the Urban Land Tax Act No.12 of 1966, within a time frame as may be fixed by this Honourable Court.

For Appellant	:	Mr.S.Subbiah, Senior counsel for N.Subramanian
For Respondents	:	Mr.A.Muthukaruppan, Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

The writ petitioner is the appellant Trust and it sought exemption from payment of urban land tax under Section 27(1) of the Tamil Nadu Urban Land Tax Act, 1966, and the said application for exemption came to be rejected by the first respondent vide impugned proceedings dated 18.05.2009. Making a challenge to the said order, the appellant/writ petitioner filed W.P.(MD).No.7455 of 2010. The said writ petition, after contest came to be dismissed on 06.01.2011 and hence, this appeal is filed.

2. Mr.S.Subbiah, learned Senior counsel appearing for the appellant has drawn the attention of this Court to the typed set of documents and would submit that it is not serious dispute that the petitioner is running very many institutions, wherein poor students are studying and that they have been granted concessions and that apart, the funds are also used for philanthropic purpose and as such, the request for exemption ought to have been considered by the first respondent / Government and by citing erroneous reasons, came to be rejected and the writ petition, challenging the said order of rejection also came to be dismissed without assigning proper and sufficient reasons and hence, prays for interference.

3. Per contra, Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents 1 to 3 has drawn the attention of this Court to the counter affidavit of the third respondent and would submit that the educational institutions run by the appellant / writ petitioner Trust is also receiving aid from the Government and that apart, they are also receiving donations. In that, the previous writ petition in W.P.No.9621 of 1986 came to be dismissed for default and as such, the present writ petition is also rejected. The learned Special Government Pleader on the merits of the case would contend that the Empowered Committee had gone into the said issue and found that the

appellant Association / Sabha is having a considerable income on their hands and it is also having surplus income after incurring to the educational institutions and as such, the request for exemption came to be rejected and the learned Judge, after thorough consideration and appreciation of the relevant facts, has rightly reached the conclusion to dismiss the writ petition and hence, prays for dismissal of the writ appeal.

4. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

5. The considered opinion of the Court that the prayer for exemption under Section 27(1) of the Tamil Nadu Urban Land Tax Act, 1966, cannot be claimed as a matter of right. The counter affidavit of the third respondent filed in this writ appeal would disclose that the Trust is having considerable income and the educational institutions run by them are also receiving aid.

6. The learned Judge has also recorded the factual finding that the petitioner Sabai is also engaged in commercial activities like maintaining parking space for four wheelers and two wheelers at North Veli Street, Madurai and collecting parking fees and on going through the materials, it is seen that the petitioner Sabai is capable of paying the urban land tax. It is also to be noted at this juncture that the urban tax payable is Rs.9436/- and in the light of the stand taken by the third respondent, this Court is of the opinion that in case of paying the said meagre amount, the petitioner Sabai cannot said to be put any hardship or loss. The findings recorded by the learned Judge also deal with factual aspects and this Court, in exercise of the appellate jurisdiction under Clause 15 of the Letters Patent, is not inclined to interfere with the same. This Court finds that there is no error apparent on the reasons assigned by the learned Judge for dismissing the writ petition and finds no merit in the writ appeal.

7. In the result, the writ appeal is dismissed, confirming the order dated 06.01.2011 in W.P.(MD).No.7455 of 2010, passed by this Court. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
   Government of Tamil Nadu,
   Fort St. George,
   Chennai 600 009.

2. The Director of Urban Land Ceiling and
   Urban Land Tax,
   Chepauk,
   Chennai 600 005.

3. The Assistant Commissioner,
   Land Reforms,
   Madurai 625 002.

+ 1 CC TO Mr.N.SUBRAMANIAN, ADVOCATE IN SR No. 58872

AKV
TE/JC/SAR-2 : 10/05/2018 : 4P/5C

W.A.(MD)No.290 of 2011
26.03.2018