

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. Nos.12959 to 12963 of 2012
& M.P.Nos.1,1,1,1 and 1 of 2011

The General Manager,
Bharat Sanchar Nigam Ltd.,
Gandhiji Road,
Erode – 638 001.

...Petitioner in the above W.Ps

Vs

The Commissioner,
Gopichetipalayam Municipality,
Gobichettipalayam,
Erode District.

... Respondent in W.P.No.12959 of 2012

The Executive Officer,
Periya Kodiveri Town Panchayat
Periya Kodiveri
Erode District.

... Respondent in W.P.No.12960 of 2012

The Executive Officer,
Nambiyur Town Panchayat
Nambiyur,
Erode District.

... Respondent in W.P.No.12961 of 2012

The Commissioner,
Sathyamangalam Municipality,
Sathyamangalam,
Erode District.

... Respondent in W.P.No.12962 of 2012

The Executive Officer,
Kunnathur Town Panchayat
Kunnathur,
Erode District.

... Respondent in W.P.No.12963 of 2012

W.P.No.12959 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the respondent's proceedings vide dated 26.08.2011 and quash the same.

W.P.No.12960 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the respondent's proceedings vide dated 24.02.2012 and quash the same.

W.P.No.12961 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the respondent's proceedings vide dated 08.03.2012 and quash the same.

W.P.No.12962 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the respondent's proceedings vide assessment number 13087 and quash the same.

W.P.No.12963 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the respondent's proceedings vide dated 01.03.2012 and quash the same.

For Petitioner : Mr.K.Anbarasan

For Respondents :

W.P.No.12959 and 12962 of 2012 : Mr.B.Anand, G.A.

W.P.Nos.12960, 12961 and 12963 of 2012: Mr.R.P.Prathap Singh, G.A.

COMMON ORDER

The petitioner, Bharat Sanchar Nigam Ltd. (BSNL), challenges the assessment and demand of property tax in respect of properties owned by it in

the light of Article 285 of the Constitution of India exempting any property owned by the Central Government from the levy of property tax.

2. Orders of the Division Bench of this Court dated 01.03.2018 in W.A.(MD)Nos.328 to 335 of 2018 and 21.02.2019 in Review Application (MD) Nos.77 to 84 of 2018 are referred to.

3. The factual position is that some properties of the Government of India stood vested in the BSNL, while certain other properties under use by BSNL continue to remain vested with the Central Government. There is no clarity forthcoming from the respective counsel as to when such vesting/transfer of ownership was occasioned. Thus the demand of property tax would have to be seen qua each specific building to determine whether the bar under Article 285 of the Constitution of India would stand attracted. This exercise has to be done property wise. The impugned demands of property tax are thus set aside and will be re-done after a proper exercise as indicated aforesaid is done, qua each specific property.

3. These Writ Petitions are allowed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition are closed.

WEB COPY

17.09.2019

Index : Yes/No
Speaking Order/Non speaking Order
sl

Dr.ANITA SUMANTH, J.

sl

To

The Commissioner,
Gopichetipalayam Municipality,
Gobichettipalayam,
Erode District.

The Executive Officer,
Periya Kodiveri Town Panchayat
Periya Kodiveri
Erode District.

The Executive Officer,
Nambiyur Town Panchayat
Nambiyur,
Erode District.

The Commissioner,
Sathyamangalam Municipality,
Sathyamangalam,
Erode District.

The Executive Officer,
Kunnathur Town Panchayat
Kunnathur,
Erode District.



W.P. Nos.12959 to 12963 of 2012

& M.P.Nos.1,1,1,1 and 1 of 2011

WEB COPY

17.09.2019

W.P.Nos.12959 to 12963 of 2012

and M.P.Nos.1,1,1,1 and 1 of 2012

Dr.ANITA SUMANTH,J.

These Writ Petitions are posted under the caption 'for clarification'.

2. Mr.B.Anand, learned Government Advocate for respondents in W.P.Nos.12959 and 12962 of 2012 and Mr.R.P.Prathap Singh, learned Government Advocate for respondents in W.P.Nos.12960, 12961 and 12963 of 2012 submit that the demands though raised for various periods, commencing from 2008 onwards are restricted to the period post 19.04.2011 only.

3. The order of the Division Bench in W.A.(MD) Nos.328 to 335 of 2018 dated 01.03.2018 as well as Review Application (MD) Nos.77 to 84 of 2018 dated 21.02.2019 pertains to properties situated in Nagercoil, whereas, the properties in the instant Writ Petitions fall in Erode District.

4. Thus the order passed in these Writ Petitions on 17.09.2019 to the effect that the assessment would have to be made after verifying the status and ownership of each property is reiterated.

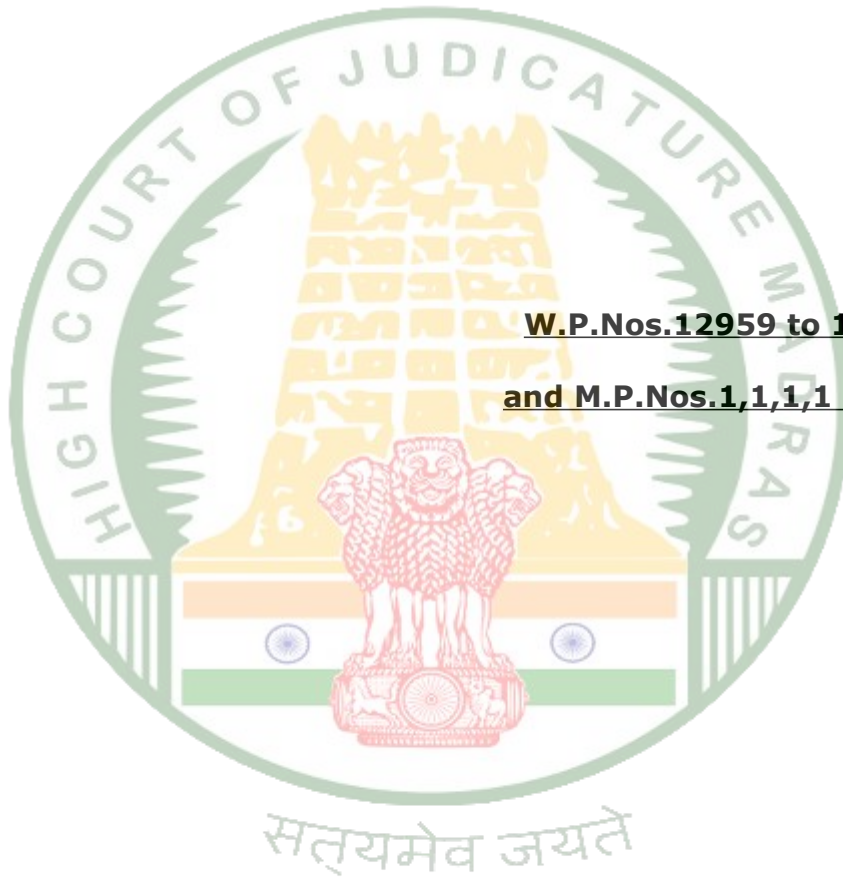
SI

WEB COPY

24.09.2019

Dr.ANITA SUMANTH,J.

SI



W.P.Nos.12959 to 12963 of 2012
and M.P.Nos.1,1,1,1 and 1 of 2012

WEB COPY

24.09.2019