IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.01.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.19099 of 2006
and
M.P.No.2 of 2006

M/s.C.B.M.Sakunthala Memorial Trust
rep.by its Managing Trustee
Mr.C.M.Ramaraj
..Petitioner

vs

1.The Special Commissioner &
Commissioner Land Reforms
Chepauk, Chennai - 600 005.

2.The Assistant Commissioner,
Urban Land Tax,
Coimbatore.

3.The Special Tahsildhar
Urban Land Tax
Coimbatore.
..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 3.5.2004, vide Assessment order in C.No.646/SKMR/1391 as confirmed by the order of the 1st respondent dated 2/5/2006 in ref.Rc.No.9671/2004/(D2), in respect of lands in Survey Nos.128/2A, 128/2B, 128/2C, 151/2, 458/2 of Sundakamuthu Village, Coimbatore Taluk and quash the same and further direct the respondents to extent the benefit of Section 29(h) of Act 20/66 in respect of the lands referred to above.

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For Petitioner : Mr.V.Ramesh

For Respondents : M/s.R.Janaki, Additional Government Pleader

O R D E R

The order impugned dated 02.05.2006 states that the income and expenditure statement filed for the year ended 31.03.2001, 31.03.2002 shows that there is an excess of income over expenditure, which amounts to Rs.156,675.99 and Rs.107,077.78

respectively, whereas the tax amount is Rs.6434/- per fasli and there is no hardship to pay the tax. As per the impugned order, the lease for which tax was levied have not been used for educational purposes.

2.The learned counsel for the writ petitioner states that the findings arrived in this regard is erroneous and contrary to the facts and circumstances. This Court is of an opinion that such disputed and complex facts and circumstances can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Such complex facts are to be adjudicated by producing documents and by adducing evidences. Such an exercise is to be done only by the authorities competent and not by this Court in a writ proceedings.

3.However, the Assistant Commissioner namely Mr.J.Balasubramaniam, Urban Land Tax, Coimbatore, who is present before this Court, made a submission that during the relevant point of time, the land was not in full usage and accordingly, the assessment of tax was issued. However, a fresh inspection is to be conducted in respect of the usage of the land by the petitioners and accordingly, a tax can be revised suitably in accordance with the procedures as contemplated under law.

4.Taking note of the fact that the submission made by the Assistant Commissioner concerned, this Court is of an opinion that the facts now set out, which relates to the year 2006, need not be gone into, now after a lapse of 12 years. However, the Assistant Commissioner, Urban Land Tax, Coimbatore is directed to conduct a fresh inspection in respect of the premises belongs to the writ petitioner and accordingly, make an assessment and pass orders suitably within a period of four Months from the date of receipt of a copy of this order. The writ petitioner is directed to co-operate for the inspection and submit their objection / explanations if any, along with the documents.

5.With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Special Commissioner &
Commissioner Land Reforms
Chepauk, Chennai - 600 005.

2.The Assistant Commissioner,
Urban Land Tax,
Coimbatore.

3.The Special Tahsildhar
Urban Land Tax
Coimbatore.

+1cc to Mr.V.Ramesh, Advocate, S.R.No.3144

W.P.No.19099 of 2006

SSV(CO)
GSP(11/02/2019)

HIGH COURT OF JUDICATURE MADRAS
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