IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 11.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.Nos.31614 & 31615 of 2003
and
WP.MP.No.38410 of 2003

The Secretary,
Gandhinagar Education Society,
Kumararaja Muthiah Hr.Sec.School Campus,
7, Crescent Avenue Road,
Gandhi Nagar, Adyar,
Chennai - 600020. ...Petitioner in both WPs

Vs

1. The Asst. Commissioner of Urban Land Tax,
Mylapore, Chennai.

2. Special Commissioner and
the Commissioner of Land Reforms,
Chepauk, Chennai - 600005.

3. Urban Land Tax Tribunal,
Ezhilagam, Chennai - 600005. ...Respondents in both WPs

PRAYER in WP.No.31614 of 2003: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other Writ or directions in the nature of a Writ calling for the records pertaining to the order dated 04.09.2003 passed by the 3rd respondent in U.L.T.A.No.7 of 2001 and quash the same and direct the 3rd respondent to dispose U.L.T.A.No.7 of 2001 on merits after giving the petitioner an opportunity of hearing.
PRAYER in WP.No.31615 of 2003: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other Writ or directions in the nature of a Writ calling for the records pertaining to the order RC.21383/99/B2 dated 30.08.2000 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.Krihsna Srinivasan
(in all WPs) for M/S.S.Ramasubramaniam Associates

For Respondents : Mr.K.Rajendra Prasad, AGP
(in all WPs) for R1 and R2

Tribunal - R3

O R D E R

The Petitioner Society was granted with an exemption of Urban Land Tax under Section 29(h) of the Tamil Nadu Urban Land Taxes Act, 1966, for the lands owned by them in Urur and Kottur Villages, by an order dated 20.05.1985 passed by the 1st respondent herein.

2. Insofar as the lands in T.S.No.1 in Block No.33; T.S.No.52 in Block No.34 and T.S.No.1 in Block No.35 of kottur Village is concerned, the 1st respondent claims to have conducted an enquiry and had found that the lands were not utilised for educational purposes and therefore had assessed the above lands to Urban Land tax by levying a sum of Rs.56,297/- per Fasli with effect from Fasli 1401 onwards leaving the other lands for exemption under Section 29(h) of the Act, by an order dated 20.05.1999. As against the said order, the revision came to be filed by the petitioner under Section 20 of the Act before the Special Commissioner and Commissioner of Land Reforms on 20.09.1999 and by an order dated 30.08.2000, the orders of the 1st respondent herein came to be confirmed in the revision. Challenging the same, the present Writ Petitions have been filed.

3. It is the submission of the learned counsel for the petitioner that the lands are being utilised only for the benefit of 11 institutions under the control of the petitioner Society and as such, the 1st respondent herein as well as the Revisional Authority was not justified in withdrawing the exemption granted. He would further submit that when the Writ Petitions were pending, this Court had directed the 1st respondent herein to inspect the said lands and pursuant to the inspections, they had also filed a counter in which they had admitted that the Society is utilising the subject lands for the purpose of 11 educational institutions. As such, he would submit that the Society is eligible for the exemption under the Act for these lands.

4. The learned Additional Government pleader by placing reliance on the averments made in the counter affidavit as well as the order passed in the revision, submitted that an inspection was conducted on the lands on 20.05.1999 by the 1st respondent herein and it was revealed that the subject lands

were low lying and not used for educational purposes and as such, the 1st respondent as well as the revisional authority was justified in withdrawing the exemption granted.

5. On a perusal of the order passed in the revision, it is seen that the 1st respondent herein claims to have conducted an inspection on 20.05.1999, whereby he had reported that the subject lands were low lying and were full of shrubs and bushes. The counter statement also ratifies the order passed by the revisional authority. As such, there are no materials placed before this Court to establish that the lands were being utilised for educational purposes in the year 1999. As such, it can only be concluded that as on 1999, the lands were not utilised for educational purposes, but were kept vacant, in view of the exemption specified in Section 29(h) of the Tamil Nadu Urban Land Taxes Act, whereby the exemption cannot be extended to lands which are vacant or the lands in which income is derived. I do not find any infirmity in the order passed by the respondent herein as confirmed by the revisional authority.

6. Nevertheless, the respondents have filed a counter affidavit dated 18.12.2018, wherein the 1st respondent herein has stated that he had inspected the subject lands in person and the report thereof reveals that the petitioner namely Gandhinagar Education Society is utilising the subject lands in T.S.No.1 in Block No.33; T.S.No.52 in Block No.34 and T.S.No.1 in Block No.35 of kottur Village for the purpose of 11 educational institutions namely 1)Rani Meyyammai Primary School, Co-Ed, Gandhi Nagar, Adyar; 2)Sri Hari Vikasam School for Mentally Disabled Children, Co-Ed, Gandhi Nagar, Adyar; 3) Kumararajah Muthiah Hr.Sec.School for Boys, Gandhi Nagar, Adyar; 4)Rani Lady Meyyamai Hr.Sec.School for Girls, Gandhi Nagar, Adyar; 5)Kumararani Meena Muthiah Hr.Sec.School Co-Ed, Gandhi Nagar, Adyar; 6)Kumararani Meena Muthiah College of Arts and Science, Co-Ed, Gandhi Nagar, Adyar; 7)Sigapi Ramaswamy Primary School, Co-Ed, R.A.Puram, Chennai - 28; 8)Rajah Muthiah Hr.Sec.School for Boys, R.A.Puram, Chennai - 28; 9)Rani Meyyammai Girls Hr.Sec.School for Girls, R.A.Puram, Chennai - 28; 10)Kumararajah Muthiah Middle School Co-Ed, R.A.Puram, Chennai - 28; 11)Chettinad Hari Shre Vidyalayam, Co-Ed, R.A.Puram, Chennai - 28.

7. When the respondents themselves have come forward with a statement that the petitioner Society is utilising the lands for educational purposes, I am of the view that they would be entitled for the exemption under Section 29(h) of the Tamil Nadu Urban Land Tax Act, 1966. However, such exemption should be continued in favour of the petitioner Society, subject to the lands being utilised for any of these educational institutions

under the control of the petitioner Society, so long as they are not kept vacant or derive income from the property.

8. It is also the submission of the learned counsel for the petitioner that they have paid the entire Urban Land Tax claimed by the respondents herein till the year 2003. The learned counsel further submits that from 2003 onwards, the subject lands are being utilised only for educational institutions.

9. For all the foregoing reasons, the order of the 1st respondent dated 20.05.1999 as confirmed by the 2nd respondent dated 30.08.2000, is confirmed. The petitioner shall pay Urban Land Tax as claimed by the respondents till 2003, after adjusting any payment made by them, towards the land in question in the present order.

10. Further, the petitioner shall also be entitled for exemption of the payment of Urban Land Tax for the aforesaid lands from the year 2003 onwards. In the event, if the respondents are of the view that the subject lands are being utilised for deriving any income or is kept vacant without utilisation, it is open to them to take appropriate action for withdrawal of the exemption in the manner known to law.

11. In view of the orders passed confirming the order of the 1st respondent as well as the 2nd respondent herein, the order passed in WP.No.31614 of 2003 and the relief sought in WP.No.31615 of 2003, requires no intereference.

12. Accordingly, the present Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

hvk

To
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Mylapore, Chennai.

2. Special Commissioner and
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CD(CO)
GMY(15/03/2019)