IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 12.03.2019

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.39233 of 2003
and
W.M.P.No.47481 of 2003

Dindigul Town Sowrastra Mahajana Shabha
Rep.by its Secretary ... Petitioner

Vs

1.The Assistant Commissioner,
Urban Land Tax, Madurai - 625 020

2.The District Revenue Officer cum Tribunal,
Dindigul District, Dindigul.

3.The Principal Commissioner and Commissioner
of Land Reforms (I/C),
Chepauk, Chennai - 600 005. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records of the third respondent in his proceedings in No.B2/16714/2001 dated 30.09.2003, confirming the order of the second respondent in ULTA No.15/99/B5 dated 14.08.2001 and the assessment order of the first respondent in his proceedings No.198/92/W2/Block No.13, dated 29.11.1993 for levying the urban tax for the land in Survey No.536/1 of Chettinaickenpatti, Dindigul Taluk and quash the order dated 30.09.2003.

For Petitioner : Mr.R.Kannan

For Respondents: Ms.K.Bhuvaneswari
Additional Government Pleader

ORDER

The orders under challenge in the present Writ Petition are for levying the urban land tax for the Survey No.536/1 of Chettinaickenpatti, Dindigul Taluk, which was passed by the first respondent on 29.11.1993, which was confirmed in the Appeal and the revision by the second and third respondent vide orders dated 14.08.2001 and 30.09.2003 respectively.

2.Heard Mr.R.Kannan, learned counsel for the petitioner and Ms.K.Bhuvaneswari, learned Additional Government Pleader appearing on behalf of the respondents.

3.The petitioner, Dindigul Town Sowrastra Mahajana Shabha, owns immovable properties measuring an extent of 1.88 acres comprised in S.No.729, New T.S.No.536/1. According to the petitioner, the said land is used for communal purposes of the members of the Dindigul Town Sowrastra Mahajana Shabha, which purpose also includes rituals being conducted for the deceased members. Apart from the area earmarked for conducting such rituals, the subject lands also have coconut trees and other fruit bearing trees.

4.The first respondent herein have subjected the petitioner's lands to levy Urban Land Tax and the lands were assessed and a sum of Rs.7492/- was levied by an order dated 29.11.1993. As against the said assessment, an appeal came to be filed before the second respondent, which was dismissed on 14.08.2001. The revision as against the said dismissal was also rejected by the third respondent on 30.09.2003, which orders are under challenge in the present writ petition.

5.The learned counsel for the petitioner submitted that the subject lands do not fetch any income and was solely used for the communal purposes. According to the learned counsel, since the lands are also utilised for the purpose of disposal of the dead and communal purposes, they are entitled to be exempted from the provisions under Section 29 (e) and (f) of the Tamil Nadu Urban Land Tax Act, 1966.

6.The learned Additional Government Pleader, on the other hand submitted that, the respondents have taken into account of the inspection report, based on which the assessment was made. The learned Additional Government Pleader submitted that as per the inspection report, there are tiled building, well, Pillaiyar Temple, Theppakulam, Gymnasium, Anjaneyar Koil, dwelling house, R.C. Roof building and another well. In view of these structures in the subject lands, the provision of the Tamil Nadu Urban Land Tax Act, 1966, had been attracted and therefore, there is no infirmity in the findings of the respondents herein.

7.I have given careful consideration to the submissions made by the respective counsels.

8.Section 29 (e) and (f) of the Tamil Nadu Urban Land Tax Act, 1966, exempts “urban lands” that are solely utilised for the purpose connected with the disposal of the dead and for communal purposes respectively.

9.It is stated that the lands do not fetch any income and it is only used for conduct of rituals for the dead and for communal purposes. On the other hand, it is also countered by the respondents that a major part of the lands consists of coconut trees and other fruit bearing trees apart from certain building structures. When Section 29 (e) and (f) exempts urban lands which is used for the disposal of the dead and for communal purposes, the question that arises herein is as to whether the land which is partly used for these purposes could be excluded from the purview of the Act.

10.Section 2(13) of the Tamil Nadu Urban Land Tax Act, 1966, defines “urban land” to include any land which is used or is capable of being used as a building-site and includes garden or grounds, if any, appurtenant to a building but does not include any land which is registered as wet in the revenue accounts of the Government and used for the cultivation of wet crops.

11.While Section 29 deals with the exemption of urban lands, Section 27 is in connection with the power of Government to exempt or to reduce the amount of urban land tax. Under Section 27, the Government is vested with the powers of modifying or reducing the urban land tax.

12.In the instant case, the subject land consists of coconut and other fruit bearing trees, which is affirmed by the petitioner, which may fetch income. While that being so, it cannot be said that the entire land is being solely used for the purpose of communal rituals.

13.The next question that arises is as to whether a portion of the land which is used for communal purposes can be exempted from assessment under the Urban Land Tax.

14.Section 29 (e) exempts urban land solely used for the purposes connected with the disposal of the dead and Section 29 (f) exempts lands used for communal purposes. There is no provision under Tamil Nadu Urban Land Tax Act, 1966, which exempts a portion of the land which is put for certain purposes falling under Section 29. There could be cases, like the case in hand, where a portion of the land alone is being used for such purposes, which squarely falls under the purposes referred to in Section 29 of the Tamil Nadu Urban Land Tax Act, 1966. In these cases, it would not be appropriate for the authorities to treat the entire portion of the land as urban land and thereby, subject the same to assessment. In such cases, the portions which fall within the scope of Section 29 of the Tamil Nadu Urban Land Tax Act, requires to be taken into account. As a matter of fact, the power of the Government to exempt or reduce the urban land tax under Section 27 of the Tamil Nadu Urban Land Tax Act is for cases of this nature. The major portion of the subject lands which is being put for communal purposes is not fetching any income. While that being so, it would be appropriate that the portion of these lands could be excluded from the total urban land and reassessment be made.

15.It is also seen that when the first respondent herein conducted an inspection, he had found that there were a couple of temples and other areas which may fall within the definition of communal purposes. Since the portion of the lands have not been utilised for the purposes other than communal purpose as evidenced in the report, the respondents should reassess the urban land in the light of the observations made in the present order.

16.For the foregoing reasons, I am of the view that impugned orders passed by the respondents herein requires a revisit. Accordingly, the orders dated 29.11.1993, 14.08.2001 and 30.09.2003 are set aside and the matter is remanded back to the first respondent, who shall pass a fresh assessment order after taking into account such portions of land which are used solely for communal purposes from the total lands in S.No.729 New T.S.No.536/1. The first respondent is at liberty to conduct a fresh inspection for the purpose of this reassessment. This exercise of reassessment shall be made within a period of three months from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. Consequently, the connected civil miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner,
Urban Land Tax, Madurai - 625 020

2.The District Revenue Officer cum Tribunal,
Dindigul District, Dindigul.

3.The Principal Commissioner and Commissioner
of Land Reforms (I/C),
Chepauk, Chennai - 600 005.

+1cc to Mr.R.Kannan, Advocate Sr.23553
+1cc to the Government Pleader Sr.23613

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and
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