IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.12411 & 12412 of 2004

M.Chellappa Thevar ...Petitioner in both W.Ps

Vs

1.Coimbatore City Municipal Corporation,
Rep.by its Commissioner,
Coimbatore.

2.Coimbatore City Municipal Corporation,
Taxation Appellate Tribunal,
Coimbatore. ...Respondents in both W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondent Coimbatore City Municipal Corporation and its officials to forthwith withdraw the levy of penalty demanded along with the property tax in respect of the building bearing (i)Door No.32 and 33 of Balaji Nagar, Ramanathapuram, Coimbatore - 641 045 (ii) Door No.7/48, N.A.Thevar Street, Ramanathapuram, Coimbatore - 641 045 and refund the past payment of penalty paid by the petitioner so far.

For Petitioner : Mr.P.K.Rajagopal in both W.Ps.

For Respondents: Mr.R.Sivakumar in both W.Ps.

C O M M O N   O R D E R

The challenge in the writ petitions is to the levy of penalty demanded on the petitioner's respective premises.

2. According to the learned counsel for the petitioner, the respondents are not entitled to levy recurring penalty on the property tax. Even otherwise, the learned counsel for the petitioner would submit that the penalty imposed is not proportionate to the additional construction put up by the

petitioner. Insofar as the power to impose penalty is concerned, Section 283 of the Coimbatore City Municipal Corporation Act, 1981, specifically empowers the Commissioner to impose penalty for unauthorized construction or alterations made. As such, it cannot be said that the Commissioner has committed a illegality by imposing a penalty. Nevertheless, the provision also indicates the quantum of penalty that can be imposed on unauthorized construction. Since the learned counsel for the petitioner disputes that the penalty is not proportionate to the area of the unauthorized construction, it would be appropriate to grant him liberty to approach the respondents seeking for modification of the penalty amount. Nevertheless, since the penalty has been provisionally determined, the petitioner shall continue to pay the present penalty imposed till it is modified or altered. It is made clear that this Court has not held or indicated that the penalty imposed is not in conformity with the unauthorized construction.

3.In the light of the above observations, the writ petition stands closed, with the aforesaid liberty. The petitioner shall pay the arrears of the penalty within a period of eight weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jas/hvk

To

1.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

2.Coimbatore City Municipal Corporation,
Taxation Appellate Tribunal,
Coimbatore.

+1cc to Mr. R.Sivakumar, Advocate, S.R.No. 32887

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NRL(CO)
GN(06/05/2019)