

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 6025 & 8238 of 2012  
and  
W.M.P. No. 2 of 2012

Mother's Matriculation School,  
Represented by its Correspondent,  
Kalingarayanpalayam, Palaiyur,  
Bhavani - 638 301.

... Petitioner in  
W.P. No. 6025 of 2012

Prasanthi Vidya Bhavan Matriculation  
Higher Secondary School,  
Represented by its Correspondent,  
Cinniampalayam, Modakkurichi,  
Erode Taluk and District - 638 104.

... Petitioner in  
W.P. No. 8238 of 2012

Vs

1. The State of Tamil Nadu,  
Represented by its Secretary to Govt.,  
Rural Development and Panchayat Raj Dept.,  
Fort St. George, Secretariat,  
Chennai - 600 009.

2. The Director of Rural Development and  
Panchayat Raj,  
Panagal Building, Saidapet,  
Chennai - 600 015. ... Respondents in both W.Ps

3. The President,  
Mettunasuvampalayam Panchayat,  
Erode District. ... 3<sup>rd</sup> Respondent in  
W.P. No. 6025 of 2012

4. The President,  
Muthugounderpalayam Panchayat,  
Cinniampalayam,  
Erode Taluk and District. ... 3<sup>rd</sup> Respondent in  
W.P. No. 8238 of 2012

Prayer in W.P. No. 6025 of 2012: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the order in G.O.Ms.No. 38, Rural Development and Panchayat Raj dated 05.03.2008 and published at Page No.1 of Extra Ordinary Issue of Part III, Sec.1(a) of the Tamil Nadu Govt. Gazette No.69 dated 05.03.2008 introducing amendment to Rule 15(c) of the Tamil Nadu Village Panchayats (Assessment and Collection of Taxes) Rules 1999 in so far as it relates to the Petitioner Institution and the notice dated 09.02.2012, enclosing the demand bearing assessment number 2987 issued by the Third Respondent herein and quash the same.

Prayer in W.P. No. 8238 of 2012: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the order in G.O.Ms.No. 38, Rural Development and Panchayat Raj dated 05.03.2008 and published at Page No.1 of Extra Ordinary Issue of Part III, Sec.1(a) of the Tamil Nadu Govt. Gazette No.69 dated 05.03.2008 introducing amendment to Rule 15(c) of the Tamil Nadu Village Panchayats (Assessment and Collection of Taxes) Rules 1999 in so far as it relates to the Petitioner Institution and the notice bearing Assessment No.568, dated 27.08.2011 issued by the Third Respondent herein and the final notice bearing Assessment No.568, dated 05.03.2012 and quash the same.

For Petitioners (in both W.Ps) : Mr. V.G. Suresh Kumar

For R1 & R2 (in both W.Ps) : Mr. R.P. Prathap Singh  
Government Advocate

For R3 (in both W.Ps) : No appearance  
(in W.P.No.6025/2012)  
: Ms.T.P.Savitha, G.A  
(in W.P.No.8238/2012)

#### COMMON ORDER

The Petitioners have challenged the G.O.Ms.No. 38/Rural Development and Panchayat Raj/05.03.2008 and the consequential demand.

2. Already by an order dated 17.06.2011 in W.A. No. 2152 of 2010 a Division Bench of this Court has passed the following order:

'Reference may be made to the order, dated 17.03.2011, which reads as under:-

"We have heard Mr. A.K. Ganguly, learned Senior Counsel; Mr.P.S. Raman, learned Advocate General and Mr.N.R. Chandran, learned Senior Counsel at length.

2. Mr.N.R. Chandran, learned Senior Counsel needs further hearing in all the matters. As jointly agreed, put up all these cases on 13<sup>th</sup> June 2011.

3. In the meantime, the appellants as also the writ petitioners shall pay the property tax with effect from 05<sup>th</sup> March 2008, the date when the amended Rule came into force. Consequently, the interim order passed in the writ petitions stands modified. Needless to say that in the event the appellants or the writ petitioners succeed, the amount that may be deposited shall be adjusted."

2. Before 17.03.2011, this batch of cases was listed on several dates. But the appellants and the writ petitioners took adjournment on one pretext or the other. On being questioned, the learned counsel appearing for the appellants and the writ petitioners submitted that the aforesaid order has not been complied with inasmuch as the property tax, as directed by this Court, has not been deposited.

3. Today, the learned counsel for the appellants prays for adjournment of the case on the ground of absence of the Senior Counsel.

4. Taking into consideration the aforesaid facts, all these writ appeals and the writ petitions stand dismissed. Consequently, the connected miscellaneous petitions are also dismissed. However, there will be no order as to costs.'

The aforesaid order is under challenge before the Supreme Court. The petitioner shall, in the mean time, continue to pay the property tax subject to any order to be passed finally by the Supreme Court. In the event, the Supreme Court decides the matter in favour of the petitioner, it shall be entitled to refund of the amounts remitted, till such time, in accordance with law.

This order has also been followed in the case of another Petitioner in W.P. No. 17972 of 2012. Since the issue is pending before the Hon'ble Supreme Court, the petitioner may continue to pay the amount till the case is decided finally by the Hon'ble Supreme Court. In case the issue is answered in favour of the Petitioner, the Petitioner may workout their remedy for refund of the amount as per the order of the Division Bench.

3. This writ petition stands disposed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(JJ Act)

// True Copy//

Sub Assistant Registrar

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To

1. The Secretary,  
Government of Tamil Nadu,  
Rural Development and Panchayat Raj Dept.,  
Fort St. George, Secretariat,  
Chennai - 600 009.
2. The Director of Rural Development and  
Panchayat Raj,  
Panagal Building, Saidapet,  
Chennai - 600 015.
3. The President,  
Mettunasuvampalayam Panchayat,  
Erode District.
4. The President,  
Muthugounderpalayam Panchayat,  
Cinniampalayam,  
Erode Taluk and District.

+2cc to Mr.V.G.Suresh Kumar, Advocate, SR.No.103401 & 103402.  
+1cc to Ms.T.p.Savitha, Advocate, SR.No.103421.  
+1cc to Government Pleader, SR.No.103687.

W.P. Nos. 6025 & 8238 of 2012  
and  
W.M.P. No. 2 of 2012

BP(CO)  
CSR: 07.02.2020