

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.7455 OF 2019
AND W.M.P.NO.8112 OF 2019

The Residents Welfare Association
Registration No.233/1980
Lakshmi Nagar Extension
Rep. By its Secretary
M.Munusamy, L.N.E. Play Ground
4th Main Road
Lakshmi Nagar Extension
Porur, Chennai - 600 116.

..

Petitioner

vs.

1. Greater Chennai City Municipal Corporation
Rep. By its Commissioner
Rippon Building
Chennai - 600 003.
2. The Deputy Commissioner (Revenue)
Greater Chennai City Municipal Corporation
Rippon Building
Chennai - 600 003.
3. The Assistant Commissioner
Zone XI
Greater Chennai City Municipal Corporation
Valasaravakkam, Chennai - 600 087.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 herein to consider and revise the basic street rate and arrive at Property Tax based on the objections raised by the petitioner Association with respect to Association Members properties situated at Lakshmi Nagar Extension, Ward No.151, Zone-XI, Porur, Chennai - 600 116 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.D.Anand Raja

For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

ORDER

Mr.D.Anand Raja, learned counsel on record for sole writ petitioner is before this Court.

2. Mr.T.C.Gopalakrishnan, learned Standing counsel for Chennai Corporation accepts notice on behalf of all the three respondents.

3. By consent of both the learned counsel, the main writ petition itself is taken up for disposal, heard out and is being disposed of.

4. The entire matter turns on a very narrow compass.

5. Chennai Corporation, in exercise of its powers under the Chennai City Municipal Corporation Act, 1919, levied property tax for the properties of petitioner Association members situate at Lakshmi Nagar Extension, Ward No.151, Zone-XI, Porur, Chennai - 600 116.

6. It is the submission of the learned counsel for writ petitioner that vide a General Revision notice dated 08.10.2018 Chennai Corporation has enhanced the half yearly property tax with effect from first half of 2018-19. In other words, with effect from 01.04.2018.

7. However, it may not be necessary to go into the facts in any further detail owing to a huge impediment for the writ petition.

8. It is not in dispute that the writ petitioner, which goes by the name 'The Residents Welfare Association', is registered as a Society, registered under the Tamil Nadu Societies Registration Act, 1975 and that the Registration Number is 233/1980.

9. Mr.D.Anand Raja, learned counsel submits that the aforesaid Society i.e., Residents Welfare Association has filed the instant writ petition, espousing the cause of more than 603 property owners.

10. A Hon'ble Division Bench of this Court has rendered two judgments in this regard. One is Formation of Indian Network Marketing Association Vs. M/s.Apple FMCG Marketing Pvt. Ltd. and

others reported in 2005 Writ L.R. 321 and the other is Tamilaga Asiriyar Koottani Vs. The Government of Tamil Nadu and 19 others reported in 2005 Writ L.R. 389. The most relevant paragraphs in Apple FMCG Marketing Pvt. Ltd. case are paragraphs 4, 5, 6 and concluding paragraph 14 which read as follows :

"4.The writ petitioner has not filed this appeal. Instead, it has been filed by an Association which claims to have been formed to redress the grievances of its members which are companies involved in the marketing of products and services using the medium of Multi Level Marketing, otherwise called Net Work Marketing. The association has alleged that it is registered as a society under the Tamil Nadu Societies Registration Act.

5.In our opinion, this writ appeal is not maintainable as the appellant cannot have any personal grievance in the matter, and at best only its members can have any grievance.

6.It is well settled that ordinarily a writ petition or writ appeal can only be filed by someone who is personally aggrieved.

14.In our view, the appellant in this case has no grievance in the matter. At best, its members could have a grievance. It cannot be said that the members of the appellant - association are so poor that they could not individually file writ appeals. It is also not a case of the nature of environmental pollution or some great hardship caused to the public at large or a disadvantaged section of it (like prisoners, exploited women, children, etc.) regarding which Public Interest Litigation has been permitted by the Supreme Court. Hence, in our considered view, this writ appeal is not maintainable, as the appellant has no locus standi. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected W.A.M.Ps. are also dismissed."

11. Subsequently, referring to Apple FMCG Marketing Pvt. Ltd., Tamilaga Asiriyar Koottani case was rendered.

12. In both these judgments, a long line of authorities pertaining to locus standi qua Article 226 have been alluded to. Without burdening this order and making it verbose by referring to the long line of authorities, suffice to extract concluding

paragraph 15 of Tamilaga Asiriyar Koottani case, which reads as follows :

"15. In our opinion, if any educational institution or Head Master or Teacher is aggrieved by the impugned G.O.Ms.No.13 dated 9.2.2005 they can file a writ petition in this Court challenging the same, but the appellant - association had no locus standi in the matter. It cannot be said that the educational institutions or Head Masters are so poor that they are unable to approach this Court. If any particular educational institution or Head Master has a grievance against the impugned G.O.Ms.No.13 dated 9.2.2005 it is for such person to file a writ petition or writ appeal, and not for any association. The writ appeal is dismissed on the ground of lack of locus standi. The writ petition is dismissed for the same reason. W.A.M.P.No.1384 of 2005 is dismissed."

13. To be noted, in paragraph 4 of Apple FMCG Marketing Pvt. Ltd. case, it has been clearly set out that the petitioner in that case had also claimed to be a registered society, registered under the Tamil Nadu Societies Registration Act.

14. In the aforesaid undisputed obtaining legal position, this writ petition is dismissed as not maintainable leaving all questions open.

15. To be noted, all questions are left open as the dismissal of this writ petition should not impede the rights of the individual members of the petitioner society to seek legal remedy.

16. This writ petition is dismissed as not maintainable with the above observation. However, liberty of the individual members to file individual writ petitions or seek other legal remedy available to them is preserved. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Commissioner,
Greater Chennai City Municipal Corporation
Rippon Building
Chennai - 600 003.
2. The Deputy Commissioner (Revenue)
Greater Chennai City Municipal Corporation
Rippon Building
Chennai - 600 003.
3. The Assistant Commissioner
Zone XI
Greater Chennai City Municipal Corporation
Valasaravakkam, Chennai - 600 087

+lcc to Mr.Venkataswamy Babu, Advocate, S.R.No.47005
+lcc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.47083

W.P.No.7455 of 2019

CS/24/07/2019



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