IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2019

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THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.13900 of 2019

Manali New Town Residents Association,
Rep.by its Secretary,
Manali New Town,
Chennai - 600 103. .. Petitioner

vs.

1. The Commissioner,
   The Greater Chennai Corporation,
   Chennai.

2. The Zonal Officer,
   Zonal -II (Revenue)
   The Greater Chennai Corporation,
   Manali, Chennai - 600 068.

3. The Member Secretary,
   Chennai Metropolitan Development Authority,
   No.1, Gandhi Irwin Road,
   Egmore, Chennai - 600 008. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus by call for the entire records of impugned order dated 19.12.2018 vide Ma.A.Va.Thu.Na.Ka.No.R2/2637/2018 on the file of 2nd respondent and quash the same and to issue direction to the 1st respondent to reconsider the levy of property tax to the residents of Manali New Town Residential Area and to levy the property tax from 2013-2014 II half year onwards and to 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.T.P.Sekar

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

ORDER

Mr.T.P.Sekar, learned counsel on record for the 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 residential houses situate in what is being described as 'Manali New Town Residential area'.

6. Crux and gravamen of the contention is that according to the petitioner, property tax can be levied only from the second half year of 2013-14, whereas, Chennai Corporation has levied property tax from the second half year of 2011-12. This submission is predicated on the basis that Chennai Metropolitan Development Authority had handed over possession of the township to Chennai Corporation only on 09.10.2013 pursuant to a decision taken on 06.08.2012.

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 'Manali New Town Residents Association', is registered as a Society, registered under the Tamil Nadu Societies Registration Act, 1975 and that the Registration Number is 124/1979.

9. Mr.T.P.Sekar, learned counsel submits that the aforesaid Society i.e., Residents Association has filed the instant writ petition, espousing the cause of more than 1200 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.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

vsm

To

1. The Commissioner,
The Greater Chennai Corporation,
Chennai.

2. The Zonal Officer,
Zonal -II (Revenue)
The Greater Chennai Corporation,
Manali, Chennai - 600 068.

3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.T.P.Sekar, Advocate SR.No.44585

+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.44686

W.P.No.13900 of 2019

KR(CO)
GMY(08/07/2019)