BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.04.2019**

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD).No.10781 of 2019
and
W.M.P.(MD) Nos.8227 and 8228 of 2019

Dr.R.Prabhakar ... Petitioner

-vs-

The Commissioner,
Madurai City Municipal Corporation,
Arignar Anna Maligai,
Tallakulam,
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the Respondent to convert the vacant site tax assessment from the annual rental value computation to the square feet method in the light of the G.O.Ms.No.151, dated 20.08.2009, Municipal Administration and Water Supply (Election) Department to the property of the Petitioner under Assessment No.4290260, R.S.No.11/2, Ward No.17, Zone No.1, Ellis Nagar, 20 Extension Road, Madurai.

For Petitioner : Mr.K.R.Laxman

For Respondent : Mr.N.Shanmugaselvam
Standing Counsel

O R D E R

The instant writ petition has been filed for a Mandamus to direct the respondent to collect vacant site tax for his property at R.S.No.11/2, Ward No.17, Zone No.1, Ellis Nagar, 20 Extension Road, Madurai on square foot basis and not on annual rental value basis.

2.It is the case of the petitioner that as per G.O.Ms.No.151, Municipal Administration and Water Supply (Election) Department dated 20.08.2009, the respondent can assess vacant site tax only on square foot basis and not on annual rental value basis.

According to the petitioner, the respondent has called upon the petitioner to pay a sum of Rs.15,615/- as half yearly tax towards vacant site tax, which was calculated on annual rental basis, which is not in accordance with G.O.Ms.No.151, Municipal Administration and Water Supply (Election) Department dated 20.08.2009. In the said circumstances, the petitioner has filed this writ petition, seeking for a Mandamus to pay the vacant site tax for his property on square foot basis instead of an annual rental value basis.

3.Heard Mr.K.R.Laxman, learned counsel for the petitioner and Mr.N.Shanmugaselvam, learned Standing Counsel for respondent.

4.The learned counsel for the petitioner drew the attention of this Court to G.O.Ms.No.151, Municipal Administration and Water Supply (Election) Department dated 20.08.2009, which reads as follows:

ABSTRACT

Urban Local Bodies (other than Chennai Corporation) - Tax on Vacant Lands - Tamil Nadu Town Panchayats, Third Grade Municipalities, Municipalities and Municipal Corporations (except Chennai) (Levy of Property Tax on Vacant Land) Rules, 2009 - Issued.

Municipal Administration & Water Supply (Election) Department
G.O.(Ms) No.151 Dated: 20.8.2009.
Read:
Tamil Nadu Municipal Laws (Amendment) Act, 2009 (Tamil Nadu Act 15 of 2009)

ORDER:-

Section 81 (3) (a) of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), section 120 (4) (a) of the Madurai City Municipal Corporation Act,1971 (Tamil Nadu Act 15 of 1971) and section 121 (4) (a) of the Coimbatore City Municipal Corporation Act,1981 (Tamil Nadu Act 25 of 1981), provide for the levy of property tax on vacant lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to buildings, based on the capital value of the said lands.

2. The Third State Finance Commission has recommended that the said sections may be amended suitably on the lines of rule 114 of the Tamil Nadu Urban Local Bodies Rules, 2000 (which has been kept under suspension), so as to levy the property tax on vacant lands subject to the minimum and maximum rates per square foot fixed by the Government, instead of fixing the said tax, based on the capital value of the vacant lands. The High Level Committee constituted to examine devolution of more powers and functions upon Urban Local Bodies has also recommended that necessary action may be

pursued to implement the said recommendation of the Third State Finance Commission.

3. The Government have accepted the said recommendation of the Third State Finance Commission and the High Level Committee, and accordingly by the Tamil Nadu Municipal Laws (Amendment) Act, 2009 (Tamil Nadu Act 15 of 2009), the laws relating to the Municipalities and Municipal Corporations (except Chennai) have been amended suitably for the purpose. The said Amendment Act is being brought into force with effect from the 1st September of 2009.

4. As per the amendments made by the said Act, the property tax on vacant lands is to be levied on Square foot basis, subject to the minimum and maximum rates fixed by the Government. Government have accepted the minimum and maximum of property tax rates per square foot, to be levied on the vacant lands recommended by the Third State Finance Commission and accordingly prescribe the same. The appended notification will be published in an Extra-ordinary issue of the Tamil Nadu Government Gazette, dated, the 20th August 2009.

(BY ORDER OF THE GOVERNOR)

NIRANJAN MARDI
SECRETARY TO GOVERNMENT"

5.As seen from the aforesaid Government Order, the property tax on vacant site tax has to be levied by the respondent only on square feet basis. But in the instant case, admittedly it has been assessed on annual rental value basis. Even though the petitioner has been paying vacant site tax as demanded by the respondent till the year 2016, he was not aware of the aforesaid Government Order. Having come to know about the aforesaid Government Order, the petitioner has filed this writ petition and has sought for a Mandamus, seeking direction from the respondent to collect the aforesaid vacant site tax on square feet basis and not on annual rental value basis. As per paragraph 4 of the aforesaid Government Order, it is very clear that the property tax on vacant site has to be levied by the respondent only on square feet basis. As seen from the sale deed in favour of the petitioner, he is the owner of an extent of 6194 square feet. According to the petitioner, if the vacant site tax is calculated on the basis of square feet, the tax payable by him will be much lower than what is demanded by the respondent now.

6.For the forgoing reasons, this Court is of the considered view that the respondent will have to collect the vacant site tax for the petitioner's land of 6194 square feet only on square feet basis and not on annual rental value basis.

7.In the result, the respondent is directed to issue a fresh demand to the petitioner towards vacant site tax for the non-paid period within four weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner shall pay the demanded amount in accordance with G.O.Ms.No.151, Municipal Administration and Water Supply (Election) Department dated 20.08.2009, within a period of four weeks thereafter.

8.With the above direction, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

To

The Commissioner,
Madurai City Municipal Corporation,
Arignar Anna Maligai,
Tallakulam,
Madurai.

1 CC to Mr.K.R.LAXMAN, Advocate (SR-63690[F] dated 29/04/2019)

+1 CC to Mr.R.RAMACHANDRAN, Advocate (SR-63823[F] dated 29/04/2019)

+1 CC to Mr.N.SHANMUGA SELVAM, Advocate (SR-63840[F] dated 29/04/2019)

Order made in
W.P.(MD).No.10781 of 2019
and
W.M.P.(MD) Nos.8227 and 8228 of 2019
29.04.2019

sj
AE/ (13.05.2019) 4P 5C