



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.849 of 2019

and

C.M.P. (MD)No.7236 of 2019

Palani Municipality,
Rep.by its Commissioner,
Palani, Dindigul District.

... Appellant/2nd Respondent

Vs.

1.Palani Town Muslim Dharma,
Paribblana Sangam,
Rep.by its Vice President,
Palani Town, Dindigul District.

..1st Respondent/Petitioner

2.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort ST. Geort, Chennai.

...2nd Respondent/1st Respondent

3.The District Collector,
Dindigul District.

..3rd Respondent/ 3rd Respondent

4.The Tahsildar,
Palani Taluk, Palani.

..4th Respondent/ 4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order made in W.P.(MD)No.20868 of 2018 dated 13.03.2019.

Prayer in WP(MD). 20868/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings in Na.Ka.No.3993 / 2017 / A1 dated 18/09/2018 quash the same and to direct the 2nd respondent to assess and levy property tax to the petitioners property situated at T.S.No.50, Ward.No.4, Subramaniam Street, Palani taluk, Palani, Dindigul District

For Appellant : Mr.P.Srinivas

For R1 : Mr.G.Chandrasekar

For R2 to R4 : Mr.A.K.Baskara Pandian

Special Government Pleader



JUDGMENT

न्यायमय [Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

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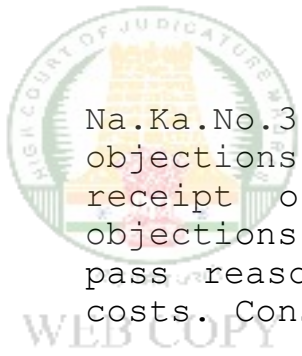
Heard Mr.P.Srinivas, learned counsel for the petitioner and Mr.G.Chandrasekar, learned counsel for the first respondent and Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondents 2 to 4.

2. This appeal is filed against the order passed in the batch of cases, dated 13.03.2019, which is a common order. The writ petition, as against which this appeal is filed is W.P.(MD) No.20868 of 2018. The prayer in the said writ petition is to quash the proceedings of the appellant Municipality, dated 18.09.2018, by which the appellant Municipality refused to assess the property of the respondent / writ petitioner for levying property tax on the ground that it is an unauthorized market.

3. There has also been references on various directions issued by this Court from time to time. The appellant municipality was not given opportunity to file counter affidavit in the writ petition. Further the writ Court had allowed the writ petition by directing that the property be assessed for property tax and we find that the writ Court has not given any finding as to whether the order, dated 18.09.2018 is justified or not and whether there is any error in the said order. Therefore without adjudicating the correctness of the order, dated 18.09.2018, the Writ Court could not have issued a direction to assess the respondent's property for property tax.

4. The Hon'ble Division Bench of this Court has disposed of another appeal filed by the appellant Municipality against the very same impugned order, dated 13.03.2019 in W.A.(MD)No.848 of 2019 on 08.08.2019. In our view, the case of the respondent / writ petitioner has to be adjudicated separately. However, we find that the respondents / writ petitioners have not given any objections to the order, dated 18.09.2018, which was the subject matter of the writ petition. Therefore, we are of the considered view that the respondent / writ petitioner shall file objections and also produce documents in respect of their stand, after which the appellant municipality shall consider the same and pass a reasoned order.

5. In the light of the above, this Writ Appeal is allowed and the order passed in the writ petition, dated 13.03.2019 is set aside and the first respondent / writ petitioner is directed to



Na.Ka.No.3993/2017/A1 as a show cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this judgment. On receipt of such objections, the appellant Municipality shall consider the same and pass reasoned order on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

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To

1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort ST. Geort, Chennai.

2.The District Collector,
Dindigul District.

3.The Tahsildar,
Palani Taluk, Palani.

+1 CC to M/s.G.CHANDRASEKAR, Advocate (SR-89084[F] dated 25/09/2019)

+1 CC to M/s.P.SRINIVAS, Advocate (SR-89790[F] dated 26/09/2019)

ORDER MADE IN
W.A. (MD) No. 849 of 2019
24.09.2019

_KM/ (09.10.2019) 3P 6C