IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.27495 of 2005

V.Ramakrishna Charitable Trust,
"Ramakrishna Builders"
2, Dr.P.V.Cherian Crescent,
Egmore, Chennai-600 008. ...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep.by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai.

2.The Special Commissioner &
Commissioner of Land Reforms,
Chepauk, Chennai- 600 005.

3.The Commissioner of Urban Land Ceiling Cum
Urban Land Tax,
Chepauk, Chennai-600 005.

4.The Assistant Commissioner,
Urban Land Tax,
T.Nagar, 345 Arcot Road,
Kodambakkam,
Chennai- 600 024.

5.The Special Thasildar(urban Land Tax),
Mambalam-Guindy Taluk,
Chennai-600 078. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to G.O.Ms.No.477 Revenue Department dated 05.08.2005 on the file of the first respondent and consequently quash the same and further direct the first respondent to afford due opportunity to the petitioner.

For Petitioner : Mr.Rajkumar Jhabakh

For Respondents: Mrs.A.B.Reehana Begam, GA

O R D E R

Today, the matter is listed through video conference. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The petitioner's request seeking for exemption in paying the Urban Land Tax, on the ground that they are a Charitable Trust, had been rejected through the impugned order dated 05.08.2005.

3. The learned counsel for the petitioner would submit that the petitioner is a Charitable Trust registered under the Income Tax Act and their entire income is being spent for charitable purposes only and therefore, their objections in this regard given earlier has not been considered.

4. Mrs.Reehana Begam, learned Government Advocate appearing for the respondents would rely on the averments made in the counter affidavit and submit that, as per G.O.Ms.No.1834, Revenue, dated 29.10.1983, the petitioner Trust has not utilized 90% of their income for the object of the Trust and therefore, they are not entitled for exemption.

5. A perusal of the impugned order would reveal that the first respondent had relied upon G.O.Ms.No.1834, Revenue, dated 29.10.1983, and stated that the petitioner Trust had not utilized 90% of their income for the object of the Trust. However, the objections of the petitioner seems to be otherwise and it is also their claim that this fact was brought to the notice of the respondents. Apparently, the objections claimed to have been given by the petitioner, is not reflected in the impugned order. The respondents may not be justified in giving reasons in the counter affidavit alone, without stating so in the impugned order.

6. In other words, such reasonings cannot be brought forth in the counter affidavit filed before this Court for the first time for substituting the reasoning stated in the impugned order. However, when the petitioner claims that they are entitled for exemption in view of their compliance of G.O.Ms.No.1834, Revenue, dated 29.10.1983, it would be appropriate to give an opportunity to the petitioner to putforth his objections once again before the respondents and with

liberty to the respondents to consider it and pass reasoned order and the ends of justice could thus be secured.

7. In the light of the above observations, the impugned order dated 05.08.2005 is set aside and the matter is remanded back to the first respondent. The petitioner is granted liberty to give their objections afresh to the first respondent herein, enclosing all the necessary documents, on which they claim exemption of payment of Urban Land Tax, atleast within a period of four weeks from the date of receipt of a copy of this order. On receipt of such objections, the first respondent herein shall endeavour to consider the same and take further course of action, atleast within a period of twelve weeks therefrom, after giving due opportunity of personal hearing to the petitioner, if necessary through video conferencing.

8. Accordingly, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Government of India,
Revenue Department,
Fort St.George, Chennai.

2.The Special Commissioner &
Commissioner of Land Reforms,
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5.The Special Thasildar(Urban Land Tax),
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Chennai-600 078.

+1cc to the Government Pleader sr.2611

W.P.No.27495 of 2005

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srg 26/08/2020