IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8219 of 2017
and
W.M.P. No. 8974 of 2017

Sri Manakula Vinayagar
Medical College and Hospital
Rep. by its Secretary
Dr. K.Narayanasamy
Kalitheerthalkuppam
Puducherry - 605 107. ... Petitioner

-vs-

The Executive Officer
Town Panchayat
Thiruvennainallur
Villupuram District. .... Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned Demand Notice dated 09.03.2017 issued by the Respondent to the Petitioner Institution and Quash the same, in the light of the provisions contemplated under the Tamil Nadu District Municipalities Act.

For Petitioner : Mr. B.Balavijayan

For Respondent : Mr. K.V.Dhanapalan

O R D E R
(through video conference)

Heard Mr. B.Balavijayan, Learned Counsel for the Petitioner and Mr. K.V.Dhanapalan, Learned Counsel appearing for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Demand Notice dated 09.03.2017 issued by the Respondent requiring the Petitioner to pay the arrears of property tax of Rs. 4,09,180/- for the period from 2012-2013 to 2016-2017.

3. The grievance sought to be ventilated by the Petitioner in this Writ Petition is that the property for which tax is

demanded by the Respondent is exempted under Section 83(1)(c) and (e) of the Tamil Nadu District Municipalities Act, 1920 (hereinafter referred to as the 'Act' for short) and as such, it cannot be fastened with any liability to pay the property tax as demanded by the Respondent.

4. It must, at once, be pointed out here that the proviso to Section 83(1) of the Act states that the said exemption would not be available for the building or land for which the rent is payable by the person or persons using the same. The question as to whether 'charitable hospital' would be automatically exempted from the payment of property tax, came up for consideration before this Court in Velammal Educational Trust -vs- State of Tamil Nadu (Order dated 22.11.2017 in W.P. (MD) No. 14508 of 2016 etc., batch), which arose out of pari materia provisions in Section 122(e) of the Madurai City Municipal Corporation Act, 1971. This Court has, after referring to the earlier decisions on the subject, held that the benefit of exemption conferred to 'charitable hospital' is not automatic in view of that proviso and as the collection of rent is a question of fact, it has to be determined by the local body concerned. In that view of the matter, it has been concluded that the only course available to such hospital is that on receipt of payment of demand notice for property tax, they would have to place their objections or file revision petition enclosing the materials to prove that they are entitled for exemption and on that basis, their representation objecting to the payment of property tax shall be considered by the local body concerned. Further direction has been issued in that ruling that one-third of the arrears of rent demanded shall be paid subject to the final decision to be taken by the local body concerned.

5. The Petitioner in this case has claimed that the building is used for 'educational purpose' and 'charitable hospital' under Clauses (c) and (e) respectively of Section 83 (1) of the Act, to which the aforesaid proviso applies. As such, this Writ Petition has to be disposed in terms of the decision of this Court in Velammal Educational Trust -vs- State of Tamil Nadu (Order dated 22.11.2017 in W.P. (MD) No. 14508 of 2016 etc., batch).



6. The result of the foregoing discussion is that the following order is passed:-

(i) The Petitioner is at liberty to make a representation to the Respondent objecting to the demand of property tax, enclosing all the relevant materials, along with one-third of the arrears in the impugned demand on or before 31.12.2020;

(ii) On receipt of the same, the Respondent after due notice to the Petitioner shall inspect the premises so as to ascertain the veracity of the materials relied by the Petitioner for exemption, with particular reference to amounts collected by the Petitioner from the persons using the premises for educational purpose and/or charitable hospital and determine whether those amounts so collected is by way of 'rent' and after affording full opportunity of hearing to the Petitioner, deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the Petitioner by 31.03.2021 under written acknowledgment;

(iii) In case the Petitioner does not carry out any of the aforesaid requirements within the stipulated time, the Respondent is not precluded from proceeding further to recover the property tax demanded in the impugned notice following the prescribed procedure in consonance with the principles of natural justice in the manner recognized by law; and

(iv) Though obvious, it is made clear that no opinion has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in the matter.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

dm/msm

To

The Executive Officer
Town Panchayat
Thiruvennainallur
Villupuram District.

Copy to

Dr. K.Narayanasamy,
Secretary,
Sri Manakula Vinayagar
Medical College and Hospital,
Kalitheerthalkuppam,
Puducherry - 605 107.

+1cc to Mr.B.Balavijayan, Advocate SR.No.34922

+1cc to Mr.K.V.Dhanapalan, Advocate SR.No.34648

W.P. No. 8219 of 2017

AD(CO)
GMY(18/11/2020)