IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI,THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.Nos.4184 and 4185 Of 2019

GHCL Limited
Represented by its Senior Manager (Finance),
Mr.N. Kumar
(Unit – Sree Meenakshi Mills),
Paravai Samanallur P.O
Madurai – 625 402 ..Appellant in both the writ appeals

-vs-

1. The Additional Chief Secretary & Commissioner,
   Land Reforms,
   Chepauk, Chennai.

2. The Assistant Commissioner,
   Urban Land Tax,
   Race Course Road,
   Madurai – 625 002.

3. The Tahsildar,
   Madurai North Taluk,
   Madurai ..Respondents in both the appeals

Writ Appeals filed under Clause 15 of Letters Patent against the order passed in W.P.No.21673 of 2019 (in respect of W.A.No.4184 of 2019) and W.P.No.21626 of 2019 (in respect of W.A.No.4185 of 2019) dated 24.07.2019.

Prayer in W.P.No.21673 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the proceedings of the impugned order dated 06.05.2019 in RC.No.B2/7397/2007 and quash the same and direct the second respondent to pass fresh assessment orders to levy urban land tax after considering the objections of the petitioner for the lands comprised in Survey No.114/5, 114/6, 114/7, 114/8, 114/9, 247/1, 282/B, 281/5 (New S.No.56/5), 281/6 (New S.No.56/6, 281/7 (New S.No.56/7), 281/8 (New S.No.56/8), 90/1, 90/2, 90/3, 90/4, 90/5, 90/6, 90/7, 90/8, 90/9, 90/10 and 90/11 measuring an extent of 430 ground and 390 sq.ft in Paravai Bit- I Part Village, Madurai North Taluk.

Prayer in W.P.No.21626 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the proceedings of the impugned order dated 06.05.2019 in RC.No.B2/7397/2007 by first respondent and quash the same and direct the second respondent to pass fresh assessment orders to levy urban land tax after considering the objections of the petitioner for the lands comprised in Survey No.280/1, 281/2, 280/3, 282/13, 280/5, 281/1, 281/2, 281/3, 281/4 measuring an extent of 188 ground and 291 sq.ft in Paravai Bit- I Part Village, Madurai North Taluk.

For appellant : Mr.K. Balamurali for
M/s Shivakumar and Suresh

For respondents : Mr.R. Udayakumar
AGP

COMMON JUDGMENT

(Delivered by The Hon'ble Chief Justice)

We have heard learned counsel for the appellant and learned Additional Government Pleader for State.

2. We had, after hearing the matter, passed the following order on 17.02.2020:-

> Heard learned counsel for the appellant.
>
> 2.The appellant came up before the learned Single Judge seeking quashing of the order dated 06.05.2019 in a matter relating to assessment orders of levy of urban land tax. Before the learned Single Judge, as noted in paragraph 7, two points were canvassed. One was with regard to exemption under Section 29(h) of the Tamil Nadu Urban Land Tax Act, 1966. The second issue raised was with regard to sale deeds that were produced by the appellant petitioner contending that the sales which had taken place and the market value thereof could not have been discarded by the revisional authority.

3.The learned Single Judge allowed the writ petition and has remanded the matter back, but has observed that the remand shall be confined only to the first point and not with regard to assessment made in relation to the sale deeds that had been pressed into service by the appellant to evidence the contention.

4.From a perusal of the impugned judgment, we find that the contention, though noted on the issue of acceptability or otherwise of the argument on the strength of sale deeds, has not been answered, keeping in view the contentions based thereof. We, therefore, prima facie, do not find any justification for the remand order being illuminated only to the first point.

5.Mr.R.Udayakumar,learned Additional Government Pleader, taking notice on behalf of respondents, submits that he may be granted time till 19.02.2020, to enable him to inform the Court about instructions on this issue.

Put up on 19.02.2020.

3. On the issue relating to consideration of sale deeds, it is the contention of the learned counsel for State that even if the learned Single Judge had not rendered his finding thereon, yet, the Commissioner of Land Reforms had taken into consideration the facts that were related for arriving at such conclusion and therefore, to that extent, the learned Single Judge having confined to the remand order does not suffer from any infirmity.

4. Having considered the submissions raised, since the issue is one of a mixed question of fact and applicability of law, it will not be appropriate to assume what was in the mind of the authority to arrive at a conclusion, and as noted in our order dated 17.02.2020, the learned Single Judge had not answered the said issue raised before him. In such a situation, the learned Single Judge was not justified in partly remitting the matter back and consequently, we are of the opinion that the entire matter deserves to be re-looked again.

5. We, therefore, allow the appeals to the extent of limiting the remand order passed by the learned Single Judge and direct that the Commissioner of Land Reforms shall pass fresh orders after considering all the issues advanced by the appellants on the basis of the materials placed before him, preferably within three months from the date of receipt of a certified copy of this order. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Additional Chief Secretary & Commissioner,
Land Reforms,
Chepauk, Chennai.

2. The Assistant Commissioner,
Urban Land Tax,
Race Course Road,
Madurai - 625 002.

3. The Tahsildar,
Madurai North Taluk,
Madurai

+1 cc to M/s.Shivakumar and Suresh,Advocate
Sr.Nos.14589 and 14590

AKM/12.03.2020/4P- 5C /

W.A.Nos.4184 and 4185 of 2019