



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

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THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD)No.10906 of 2019

and

W.M.P. (MD)Nos.8346, 8347 & 8348 of 2019

WEB COPY

M/s.Hotel Saranya Pvt.Ltd.,
represented by its
Managing Director,
Dr.S.Nagharajan,
No.68, Meenakshipuram Road,
Nagercoil - 629 001.

... Petitioner

Vs.

The Commissioner,
Nagercoil Municipality
(Now Nagercoil Municipal Corporation),
Nagercoil - 629 001.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to demand notices, dated 29.10.2018 and 30.10.2018 issued by the respondent to consider the petitioner's representation, dated 11.04.2019.

For Petitioner : Mr.J.Alaguram Jothi
For Respondent : Mr.P.Athimoolapandian,
Standing Counsel

ORDER

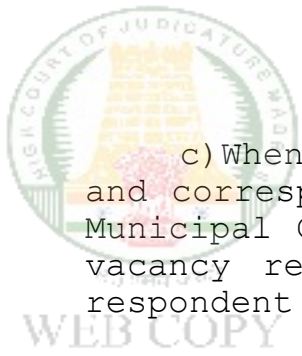
(This petition was heard through video conferencing)

This writ petition has been filed challenging the impugned demand notices, dated 29.10.2018 and 30.10.2018 issued by the respondent calling upon the petitioner to pay a sum of Rs.24,36,544/- towards arrears of property tax from 1993-94 to 2018-2019.

2.The impugned demand notices have been challenged on the following grounds:

a)The impugned demand pertains to the property tax payable for the past 18 years, that too, for a building, which is kept under lock and seal by SIPCOT.

b)The impugned demand has been made in violation of provisions of Section 345 of the Tamilnadu Municipalities Act which corresponds to Section 482 of the Nagercoil Municipal Corporation Act.



c)When Section 87 of the Tamilnadu District Municipalities Act and corresponding provision under Section 482 of the Nagercoil City Municipal Corporation Act gives authority to the respondent to give vacancy remission, non-application of the said provisions by the respondent is un-sustainable.

3.It is the case of the petitioner that he has also given a representation on 11.04.2019 seeking for remission from payment of property tax for the aforementioned reasons. According to the petitioner, the impugned demand notices are arbitrary and illegal and have been issued without authority. In such circumstances, this writ petition has been filed.

4.Heard Mr.J.Alaguram Jothi, learned counsel appearing for the petitioner and Mr.P.Athimoolapandian, learned Standing Counsel appearing for the respondent.

5.The learned standing counsel for the respondent, on instructions, would submit that the challenge has been made only to the demand notices and no challenge has been made by the petitioner to the assessment orders passed by the respondent. It is also his contention that for the past 18 years despite passing assessment orders by the respondent calling upon the petitioner to pay arrears of property tax, the same has not been paid till date. According to him, as on date the property tax payable by the petitioner is Rs.24,36,544/-, which is demanded under the impugned notices.

6.Per contra, the learned counsel for the petitioner would submit that the impugned demand notices have been issued to the petitioner by violating the statutory provisions prescribed under Section 482 of the Nagercoil City Municipal Corporation Act. According to him, none of the assessment orders, mentioned by the learned standing counsel, has been furnished to the petitioner. According to him, in the alleged assessment proceedings, no notice was given to the petitioner. Hence, according to him, principles of natural justice has been violated by the respondent. It is represented by the learned counsel for the petitioner that a sum of Rs.6,09,138/- has been paid pursuant to the order, dated 29.04.2019.

7.As seen from the affidavit filed in support of this writ petition, SIPCOT had taken symbolic possession of the property from the petitioner, earlier on account of non-payment dues by the petitioner to SIPCOT. Admittedly, the petitioner has taken back the possession, after settling the dues with SIPCOT only in the year 2019. It is also an admitted fact that the property was under lock and seal by SIPCOT and it was released only in the year 2019.

8.After giving due consideration to the aforementioned factors, this Court is of the considered view that no prejudice will be caused to the respondent, if the petitioner's representation, dated



11.04.2019 is considered by the respondent on merits and in accordance with law.

9. For the foregoing reasons, this Court directs the respondent to consider the petitioner's representation dated 11.04.2019 seeking remission of property tax for his property situated at No.68, Meenakshipuram Road, Nagercoil - 629 001 and pass final orders on merits and in accordance with law, after giving sufficient opportunity to the petitioner to place his contentions, within a period of twelve weeks from the date of receipt of a copy of this order. Till such time the impugned notices, dated 29.10.2018 and 30.10.2018 issued by the respondent shall be kept in abeyance. If the respondent while passing final orders, decides that the amount demanded under the impugned notices is payable, the respondent shall take legal action against the petitioner in accordance with law.

10. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commissioner,
Nagercoil Municipality
(Now Nagercoil Municipal Corporation),
Nagercoil - 629 001.

W.P. (MD)No.10906 of 2019

01.12.2020

PK(CO)

NR (14/12/2020) 3P : 2C