



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.02.2020**

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.[MD]No.323 of 2019

and

W.M.P. (MD)Nos.260 and 261 of 2019

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The Correspondent,
St.Mary's Nursery and Primary School,
Devakottai - 630 302,
Sivagangai District.

: Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St, George, Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Commissionerate of Municipal Administration,
6th Floor, Ezhilagam Annex Building,
Chepauk, Chennai - 600 005.

3.The Commissioner,
Devakottai Municipal Office,
Devakottai,
Sivagangai District.

4.The Assistant Commissioner,
Devakottai Municipal Office,
Devakottai,
Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Declaration to declare the impugned Tamil Nadu Municipal Laws (Second Amendment) Act, 2018 published vide Extraordinary Notification, dated 25.01.2018 and the consequential Demand Notice in M.F.No.25-I-II, dated 26.11.2018 to a tune of Rs.1,21,497/- for the years 2017-2018-II (Rs.40,499/-) and 2018-19-I (Rs.40,499/-) and II (Rs.40,499/-) respectively and the further proceedings towards property tax in relation to the petitioner school as unconstitutional, ultra vires, null and void.

<https://hcservices.ecourts.gov.in/hcservices/>

: Ms.A.Amala



For respondents

:Mr.V.R.Shanmuganathan
Special Government Pleader
ORDER

[Order of the Court was made by
SUBRAMONIUM PRASAD, J]

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This Writ Petition seeks to challenge the Tamil Nadu Municipal Laws (Second Amendment) Act, 2018 and the consequential demand notices, enhancing the property tax, issued by the Sivagangai Municipality.

2.A similar challenge was raised in a batch of Writ Petitions questioning the competence of the Government to increase Property Tax and the manner in which the Property Tax has been increased. A Division Bench of this Court in a batch of Writ Petitions in W.P.No.18008 of 2018, etc. batch [Monfort Academy Matriculation Higher Secondary School Vs. the Secretary, Department of Municipal Administration and Water Supply Department, Chennai, and others], decided on 13.09.2019, has upheld the validity of the amendment and consequential increase in the property tax.

3. Other than the competence and the increase in the property tax, it has been argued by the learned Counsel for the petitioner that the property tax has been levied retrospectively from 01.10.2017. It has now been clarified in a circular, dated 25.05.2018, in Roc.No.7234/2014/R1 that assessments will be made only from 01.04.2018 by the Commissioner of Municipal Administration, Chennai. In Clause 6 of the said circular, it is clarified as under:

"6. With respect to Municipalities, either Building plan approval or Un-Authorised Construction Notice No. to be made mandatory for all new assessments from 01.04.2018".

4. In view of the said clarification, this Court need not adjudicate on the retrospective application of the increase in property tax. Hence, the impugned demand notice issued by the respondent demanding property tax retrospectively from 01.10.2017 is set aside.

5. The Writ Petition is, accordingly, partly allowed in terms of the judgment of Division Bench, dated 13.09.2019.

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However, there is no order as to miscellaneous petition is closed.

costs. Consequently, connected

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gcg/cmr

To

1.The Secretary,
Department of Municipal Administration
and Water Supply,
Fort St, George, Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Commissionerate of Municipal Administration,
6th Floor, Ezhilagam Annex Building,
Chepauk, Chennai - 600 005.

3.The Commissioner,
Devakottai Municipal Office,
Devakottai,
Sivagangai District.

4.The Assistant Commissioner,
Devakottai Municipal Office,
Devakottai,
Sivagangai District.

+1 CC to M/s.A.AMALA, Advocate (SR-8285[F] dated 26/02/2020)

+1 CC to SPL.GP (SR-8410[F] dated 26/02/2020)

ORDER MADE IN

W.P. [MD]No.323 of 2019

and

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_KM/ (06.03.2020) 3P 7C