IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.18551 OF 2020
&
W.M.P.NO.22998 OF 2020
(THROUGH VIDEO CONFERENCING)

Adilakshmi Thirumana Mandapam
Rpresented by
R. Aarthi
Wife of RajeshKanna
Temporarily residing at
131, Defence Colony,
Guindy, Chennai, ... Petitioner

Vs

1. The Director of Town Panchayat
Kuralagam, Chennai.

2. The Assistant Director of Town Panchayat
Villupuram.

3. The Executive Officer
Ulundurpet Selection Grade Town Panchayat
Kallakurichi District. ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records on the file of the 3rd Respondent in proceedings Na.Ka.No.294/2020/A2 dated 22.10.2020 pursuant to the proceedings in Na.Ka.No.A2/294/2020 dated 29.09.2020 and Na.Ka.No.151/2017/A2 dated 21.09.2020 and quash the same as illegal, incompetent and without jurisdiction and further direct the 3rd respondent to implement the resolution No.399 dated 30.01.2014 by the council of Ulundurpet Special Grade Town Panchayat to the petitioner Adilakshmi Thirumana Mandapam situated abutting Ulundurpet-Panruti Road on par with other Thirumana Mandapam by taking into consideration the extent, after providing sufficient and proper opportunity to the petitioner.

For Petitioner	:	Mrs.R.Poornima
For Respondents	:	Mr.D.Ravi Chander
For R1 & R2		Spl.Government Pleader
For R3	:	Mr. R. Gokulakrishnan.

ORDER

Heard learned counsel for the petitioner and for the respondents, petitioner has challenged the impugned orders dated 21.09.2020, 29.09.2020 and 22.10.2020 respectively. It is the case of the petitioner, the petitioner is running a marriage hall (namely Adilakshmi Thirumana Mandapam) and that the petitioner has paid property tax all along correctly at Rs.17,456/- from 1988. However, in 2002 pursuant to resolution of the Panchayat Board, the tax was revised to Rs.70,770/- and the tax was demanded from the petitioner in terms of resolution No.163 dated 29.02.2007.

2. Learned counsel for the petitioner submits that the aforesaid resolution was challenged by the petitioner's father during his life-time in W.P.No.817 of 2012 which came to be disposed by this Court by an order dated 12.06.2014. Learned counsel for the petitioner submits that thereafter, another order was passed on 01.12.2017 bearing reference No. Na.Ka.No.A2/151/2017, which came to be challenged by the petitioner in W.P.No.33906 of 2017.

3. Learned counsel for the petitioner submits that the said writ petition was disposed of on 05.03.02020 by this Hon'ble Court. However, the order was not communicated to the petitioner as the petitioner's father passed away. It is submitted that another order was passed details of which was not furnished to the petitioner.

4. Learned counsel for the petitioner further submits that the respondents have arrived at gross tax from the petitioner from the period of 1998 till 2020-21, for a consolidated sum of Rs.24,66,209/-. Learned counsel for the petitioner, further submits that the respondents have treated three floors as a separate door numbers and have demanded tax for all the three floors separately as if all the three floors(in Adilakshmi Thirumana Mandapam) were separate. The Learned counsel for the petitioner further submits that the second floor merely houses a toilet and therefore, demanding an equal amount as tax cannot be countenanced.

5. Learned counsel for the petitioner further submits that during the interregnum the petitioner has paid a sum of Rs.7,68,600/- as tax due for the entire period and therefore one more opportunity may be granted to the petitioner before third

respondent so that the petitioner can properly explain as to why the tax demanded from the petitioner cannot be sustained.

6. On behalf of contesting respondent, learned counsel for the third respondent Mr. R. Gokulakrishnan submits that the petitioner's father had made unauthorized constructions both in the first and the second floor apart from additional construction in the ground floor. It is submitted that in all the total extent of build up areas is 16,629 square feet as against 4464 square feet at the time of construction while obtaining approval for the original plan in the ground floor. It is submitted that over a period of time the petitioner's father had put up additional constructions without approval. It is further submitted that on the additional constructions also, the tax is payable and therefore, the respondents are justified in demanding aforesaid tax. It is further submitted that an inspection was carried on 03.06.2021 which confirms the above position. In the notice and inspection reported on 03.06.2021 bearing reference No. Na.Ka.No.151/2021/82 at the total built up area of the property is 16,629 square feet and therefore, the petitioner is liable to pay tax and that apart from municipal charges such as water charges, removal of solid waste etc. which is also to be paid and therefore, the petitioner should be directed to pay the tax and the charges immediately.

7. Heard learned counsel for the petitioner and the respondents. Perused the orders passed by this Court in W.P.No.817 of 2012 dated 12.06.2014 and order dated 05.03.2020 in W.P.No.33906 of 2012 and the impugned demand notice and orders dated 21.09.2020, 29.09.2020 and 22.10.2020.

8. The averments, counter-affidavit filed by the respondents seek to indicates that there are additional constructions in the ground floor, first floor and the second floor. This stands confirmed as per the inspection report dated 03.06.2021 copy of which has been furnished to the petitioner during the pendency of the present writ petition. Considering the fact that additional constructions have been made, tax is required to be paid. However, levy of uniform tax at 70,770/- per annum for the entire period may not be justified unless there are records to show that these construction existed all along since.

9. The respondents re-determine property again and come to a fair conclusion as to when each of the floors and an additional constructions were made and demand tax according to. If necessary the respondents shall also issue a corrigendum notice to the petitioner within a period of 60 days.

10. Considering the fact that the total demand has been quantified as 24,66,269/- towards the said property tax and

other additional charges for the period between 1998-99 to 2020-21 and considering the fact the petitioner has not effectively participated in the proceedings pursuant to orders dated 12.06.2014 in W.P.No. 817 of 2012 and in W.P.No.33906 of 2017 dated 05.03.2020, the petitioner is directed to pay a sum of Rs.5 lakhs as deposit within a period of 30 days with the respondent from the date of receipt of copy of this order. This amount shall be adjusted against the tax to be determined afresh. The third respondent shall thereafter pass appropriate orders in accordance with law within a period of 60 days.

The writ petition stands disposed of with the above observations. Consequently connected writ miscellaneous petition is also closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nst

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   Kuralagam, Chennai.

2. The Assistant Director of Town Panchayat
   Villupuram.

3. The Executive Officer
   Ulundurpet Selection Grade Town Panchayat
   Kallakurichi District.

+1cc to Mrs.R.Poornima, Advocate, S.R.No.62315
+1cc to Mr.R.Gokulakrishnan., Advocate, S.R.No.61734

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&
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SPD(CO)
PM/14/12/2021