



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2021

CORAM

THE HONOURABLE MR.JUSTICE **G.R. SWAMINATHAN**

W.P. (MD)No.4701 of 2012

and

M.P. (MD)Nos.1 and 2 of 2012

Dr.Alexon Deva Sahayam

: Petitioner

Vs.

The Commissioner,
Nagercoil Municipality,
Nagercoil, Kanyakumari District.

: Respondent

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records relating to the notice of the respondent in M.F.No.25-I-II, dated 05-01-2012 and quash the same as illegal and consequently to forbear the respondent from in any way collecting the enhanced property tax from the petitioner in the Assessment No.39016 in the light of Judgment and Decree passed in O.S.No.265 of 2011, dated 20-03-2003, on the file of Principal District Munsif Court, Nagercoil.

For Petitioner

:Mr.Mohaboob Athiff

for Mr.C.Vankatesh Kumar

For Respondent

:Mr.P.Athimoola Pandian

ORDER

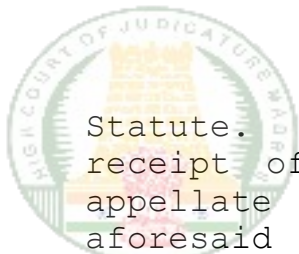
Heard the learned Counsel appearing on either side.

2.The subject matter pertains to levy of property tax on the petitioner's property. The learned Counsel for the petitioner would state that the impugned order of enhancement is contrary to the binding Civil Court decree obtained by the petitioner.

3.Per contra, learned Standing Counsel appearing for the respondent would state that the petitioner having filed a Writ Petition in the year 2012 and having obtained an interim order on condition, he ought to have complied with the same. Since the petitioner has not done so, he is not entitled to the discretionary relief at the hands of this Court.

4.I am of the view that the order impugned in this Writ Petition is very much appealable. When the petitioner has an effective alternative remedy available under the Statute, he should rather takes recourse to the same, instead of invoking the writ jurisdiction of this Court. This more so, because, some contentious facts are also involved.

5.Therefore, this Writ Petition is disposed of by permitting the petitioner to avail the alternative remedy available under the



Statute. The petitioner is given four weeks time from the date of receipt of a copy of this order to file an appeal before the appellate authority/forum. If the appeal is filed within the aforesaid period, the appellate authority will entertain the same without reference to limitation. It is open to the petitioner to apply for interim relief before the appellate authority also. If and when such an application is filed, the same will be disposed of expeditiously. The demand impugned in this Writ Petition shall be kept in abeyance for a period of eight weeks. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

TO

The Commissioner,
Nagercoil Municipality,
Nagercoil, Kanyakumari District.

W.P. (MD)No.4701 of 2012
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